

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 27, 1995

The Council of the City of San Jose convened in regular session at 9:30 A.M. in City Council Chambers at City Hall.

Present: Council Members -Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members -None.

Upon motion unanimously adopted, Council recessed at 9:35 A.M. to a Closed Session in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (a) to discuss existing litigation in the cases of Phuoc Tran, et al. v. City of San Jose, et al. to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9 in two matters involving significant exposure to litigation and nine matters regarding the initiation of litigation; and to confer with Labor Negotiator Pursuant to Government Code 54957.6 - City Negotiator: City Manager designee Nona Tobin, Employee Organization: Municipal Employees Federation; City Negotiator: City Manager designee Debra Figone, Employee Organization: Inter-national Association of Firefighters; City Negotiator: City Manager Regina Williams, Employee Organization: Unrepresented Employees: Unit 99.

Present: Council Members -Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer

Absent: Council Members -None.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:45 A.M. and reconvened at 1:37 P.M. in the Council Chambers.

INVOCATION

Rabbi Joseph Gitin, Rabbi Emeritus, Temple Emanu-El, delivered the Invocation.
(District 6)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, Item 9g was deferred, Item 6e(25) was dropped, and the Orders of the Day and the Amended Agenda were approved. Vote: 11-0-0-0.

CEREMONIAL ITEMS

5a Presentation of commendation to Judy Helm for her years of service to the San José Municipal Health Services Program. (Johnson)

Documents filed: None.

Discussion/Action: Joining Mayor Hammer at the podium, Vice Mayor Johnson presented a commendation and plaque to Judy Helm in recognition to her years of service to the San José Municipal Health Services Program.

**5c Presentation of a commendation to “Little Joe and the Familia” for their accomplishments in the music industry and for all their time and resources they have volunteered in community educational projects. (Diaz)
(Rules Committee referral 6/21/95)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined by Council Member Diaz, who presented a commendation to “Little Joe” Hernandez, popular Tex-Mex band which will be opening their Northern California Headquarters in San Jose. Council Member Diaz recited his many honors, including Grammy awards and acknowledged his extensive volunteer work for civic and non-profit organizations, for which he was named “Humanitarian of the Year “ in 1990 by the Kiwanis Club.

**5d Presentation of a proclamation to the Crime Prevention Unit of the San José Police Department declaring August 1, 1995 as “National Night Out.” (Mayor)
(Rules Committee referral 6/21/95)**

5d (Cont'd.)

Documents filed: None.

Discussion/Action: Mayor Hammer presented a proclamation to Assistant Chief of Police Tom Shigemasa and Lt. Walter Tibbet declaring August 1, 1995 as "National Night Out". The proclamation was accepted by Chief Shigemasa on behalf of Police Chief Louis Cobarruviaz, and Lt. Walter Tibbet of the Crime Prevention Unit asked Unit members to stand and be recognized.

City Manager Regina V.K. Williams announced the appointments of Deputy City Manager Adriana Garza and Deputy City Manager Mark Linder and welcomed them to the City of San Jose.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING and adoption of a resolution authorizing the reorganization of territory designated as Evergreen No. 180, which involves the annexation to the City of San José of 324± acres of land, located on the southeast corner of Quimby Road and Ruby Avenue and the detachment of the same from the Central Fire District. CEQA: Resolution No. 63179. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated June 15, 1995, recommending adoption of said resolution.

Discussion/Action: The public hearing was opened and there was no testimony from the floor. Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, the public hearing was closed, Resolution No. 66025, entitled: "Resolution of the Council of the City of San José Ordering the Reorganization of Certain Inhabited Territory Designated As Evergreen No. 180 Subject to Liability for General Indebtedness of the City After Finding Protests Insufficient to Terminate Such Proceedings", was adopted. Vote: 11-0-0-0.

Items 10b, 10c, and 10d were heard together.

- 10b Adoption of the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 1995-96. (City Manager's Office)**
- 10c Adoption of the Annual Revenue Resolution for Fiscal Year 1995-96. (City Manager's Office)**

- 10d (1) **Adoption of a resolution establishing the Schedule of Fees and Charges for Fiscal Year 1995-96.**
 (2) **Adoption of a resolution establishing fees and charges for recreational and park activities.**
 (City Manager's Office)

Documents filed: (1) Memorandum from Mayor Hammer dated June 23, 1995, recommending adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement in the amount of \$200,000 with the Family Health Organization of Alviso for the purchase of the building located at 3030 Alum Rock Avenue. (2) Memorandum from Mayor Hammer dated June 23, 1995, recommending funding for the Art Museum Roof as follows: (a) \$50,000 from the General Fund Contingency Reserve, and (b) \$50,000 from the Redevelopment Agency Capital Budget; and that City staff be authorized to include these allocations in the final appropriations ordinance. (3) Memorandum from Redevelopment Agency Executive Director, Frank M. Taylor, dated June 1, 1995, recommending Council modify the City's Fee Resolution to provide for a reduction in fees for the Downtown Core and the Julian-Stockton Redevelopment Area.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Ordinance No. 24945, entitled: "Annual Appropriation Ordinance of the City of San José for City's Fiscal Year Beginning July 1, 1995, and ending June 30, 1996, Appropriating and Authorizing the Expenditure of Monies for the Operation of Each of the Officers, Departments, and Agencies of the City During Said Fiscal Year, and for Various Other Purposes and Objects for Said Fiscal Year; and Providing for Loans and Transfers from Various City Funds to Other City Funds as May be Necessary During Said Fiscal Year"; Resolution No. 66026, entitled: "A Resolution of the Council of the City of San José Adopting the Estimated Revenues for Fiscal Year 1995-96"; Resolution No. 66027, entitled: "A Resolution of the Council of the City of San José Setting Forth the Schedule of Fees Effective July 1, 1995", and Resolution No. 66028, entitled: "A Resolution of the Council of the City of San José Setting the Schedule of Fees for the Use of Parks and Recreational Facilities and Repealing Resolution Nos. 65350, 65852 and 65883", were adopted. Vote: 11-0-0-0.

CONSENT CALENDAR

Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, Items 6b(2), 6e(64), 6e(45)(b), 6e(52), and 6e(68) were removed from the Consent Calendar and heard separately and the remainder of the Consent Calendar was approved and the below listed items taken as indicated. Vote: 11-0-0-0.

Mr. William J. Garbett addressed the Council in opposition to Items 6d(4) ,6e(3), 6e(2), 6e(31), 6f(3), 6f(11) and 6f(22).

Ordinances for Final Adoption

- 6b(1) ORD. NO. 24929 - Amends Chapter 4.24 of Title 4 of the San José Municipal Code to add a new Section 4.24.015 to authorize the City Manager to settle workers' compensation claims against the City in which the amount to be paid by the City does not exceed \$50,000.**

Documents filed: Proof of publication of title of Ordinance No. 24929 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24929 was adopted. Vote: 11-0-0-0.

- 6b(2) Removed from the Consent Calendar and heard last with Item 6e(64).**

- 6b(3) ORD. NO. 24931 - Amends Title 15 of the San José Municipal Code to add a new Chapter 15.40 with regard to Potable Water Franchises and granting a Potable Water Franchise to San José Water Company and Great Oaks Water Company.**

Documents filed: Proof of publication of title of Ordinance No. 24931 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24931 was adopted. Vote: 11-0-0-0.

- 6b(4) ORD. NO. 24936 - Amends Chapter 4.58 of Title 4 of the San José Municipal Code to add Section 4.58.055 which provides an exemption from real property conveyance tax for transfers of real property between family members made solely for the purpose of qualifying for certain loans or for releasing family members as loan cosigners.**

Documents filed: Proof of publication of title of Ordinance No. 24936 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24936 was adopted. Vote: 11-0-0-0.

- 6b(5) **ORD. NO. 24937 - Amends Chapter 11.28 of Title 11 of the San José Municipal Code by repealing the provisions setting various speed limits on various streets and by providing that future changes to speed limits will be adopted by resolution of the City Council.**

Documents filed: Proof of publication of title of Ordinance No. 24937 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24937 was adopted. Vote: 11-0-0-0.

- 6b(6) **ORD. NO. 24938 - Amends Title 13 of the San José Municipal Code to add a new chapter to regulate use of the paseos and plazas in Downtown San José.**

Documents filed: Proof of publication of title of Ordinance No. 24938 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24938 was adopted. Vote: 11-0-0-0.

- 6b(7) **ORD. NO. 24939 - Amends Part 10 of Chapter 22.01 of Title 22 of the San José Municipal Code to add various sections, to authorize the Director of the Department of Conventions, Arts and Entertainment (also referred to as Convention, Cultural and Visitor Services) to adjust rates or refund fees for use of the facilities.**

Documents filed: Proof of publication of title of Ordinance No. 24939 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24939 was adopted. Vote: 11-0-0-0.

- 6b(8) **ORD. NO. 24941 - Approves the first amendment to the Development Agreement with Cisco Systems, Inc., relative to the development of property in North San José.**

Documents filed: Proof of publication of title of Ordinance No. 24941 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24941 was adopted. Vote: 11-0-0-0.

- 6b(9) ORD. NO. 24942 - Rezones certain property situate on the north side of Murphy Avenue, 400 feet west of Lundy Avenue. PDC 95-04-023**

Documents filed: Proof of publication of title of Ordinance No. 24942 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24942 was adopted. Vote: 11-0-0-0.

- 6b(10) ORD. NO. 24943 - Rezones certain property situate on the north side of Massida Court, 100 feet west of Carter Avenue. PDC 95-02-012**

Documents filed: Proof of publication of title of Ordinance No. 24943 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24943 was adopted. Vote: 11-0-0-0.

- 6b(11) ORD. NO. 24944 - Rezones certain property situate on the southwest corner of Saratoga and Tanbark Street. PDC 95-04-022**

Documents filed: Proof of publication of title of Ordinance No. 24944 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24944 was adopted. Vote: 10-1-0-0. Noes: Pandori.

Public Hearings Set by Council

- 6c(1) Adoption of a resolution setting a public hearing on August 8, 1995 at 1:30 p.m. for the City Council to hear and rule on any objections to the Weed Abatement Cost Report. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66029, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing of the Cost Report for Weed and Refuse Abatement on August 8, 1995 Pursuant to Section 9.12.520 of the San Jose Municipal Code", was adopted. Vote: 11-0-0-0.

- 6c(2) Adoption of a resolution of intention to vacate several easements over portions of Poco Way between McCreery Avenue and Sunset Avenue, reserving a public service easement over the entire portion of Poco Way and an overland drainage easement, and setting a public hearing on August 8, 1995 at 1:30 p.m. CEQA: ND. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66030, entitled: "Resolution of the Council of the City of San José Approving a Certain Map Showing Those Portions of Poco Way Between McCreery and Sunset Avenues and Easements Shown on the Map of Tract 2753 Which Said Council Proposes to Vacate, Subject to the Reservation of a Certain Public Service Easement and Certain Storm Water Release Easement; Directing the City Clerk to File Said Map in the Office of the City Clerk; Describing Said Street and Easements to be Reserved; Setting a Public Hearing Thereon; and Directing Notice Thereof to be Posted", was adopted. Vote: 11-0-0-0.

- 6c(3) Adoption of a resolution initiating proceedings to amend Section 20.08.240 and Section 20.08.315 of Chapter 20.08 of Title 20 of the San José Municipal Code by limiting issuance of Special Use Permits for the reinstatement of legal nonconforming uses to eighteen months from the discontinuance of the nonconforming use, setting a public hearing for September 5, 1995 at 7:00 p.m., and referring said ordinance to the Planning Commission for their review and recommendation. (Planning, Building and Code Enforcement)
[Deferred from 6/20/95 - Item 6c(1)]**

Documents filed: None.

Discussion/Action: Deferred to August 8, 1995.

- 6c(4) Adoption of a resolution setting a public hearing on August 15, 1995 at 1:30 p.m. to:**
- (a) Convey certain City property located at 1440 Dubert Lane to InnVision.**
 - (b) Approve terms of a Disposition and Development Agreement with InnVision for the property conveyance, project financing and other details necessary to transfer ownership of City-owned property at 1440 Dubert Lane to InnVision for use as a transitional shelter.**
- (Housing)**
(Rules Committee referral 6/21/95)
Renumbered from Item 9cc.

6c(4) (Cont'd.)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 20, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66031, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing Regarding an Approval of a Development and Disposition Agreement Between the City of San José and the InnVision for the Transfer of the Property at 1440 Dubert Lane", was adopted. Vote: 11-0-0-0.

Plans and Specifications

6d(1) TRACT NO. 8701 - Southwest corner of Glenview Drive and Rajkovich Way - Shapell Industries, Inc., a Delaware Corporation - 81 single family detached units. Adoption of resolutions approving the plans, final map, and contract for Tract No. 8701. CEQA: Resolution No. 59924. District 10. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66032, entitled: "A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8701"; Resolution No. 66033, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8701"; Resolution No. 66034, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8701", were adopted. Vote: 11-0-0-0.

6d(2) TRACT NO. 8702 - Southwest corner of Glenview Drive and Rajkovich Way - Shapell Industries, Inc., a Delaware Corporation - 99 single family detached units and accepting approximately 16.8 acres of land for public parks purposes. Adoption of resolutions approving the plans, final map, and contract for Tract No. 8702. CEQA: Resolution No. 59924. District 10. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 66035, entitled: "A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8702"; Resolution No. 66036, entitled: "A Resolution of the

6d(2) (Cont'd.)

Council of the City of San José Approving and Accepting Final Map of Tract No. 8702”; Resolution No. 66037, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8702”, were adopted. Vote: 11-0-0-0.

6d(3) TRACT NO. 8704 - Southwest corner of Glenview Drive and Rajkovich Way - Shapell Industries, Inc., a Delaware Corporation - 46 single family attached units. Adoption of a resolution approving the final map for Tract No. 8704. CEQA: Resolution No. 59924. District 10. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66038, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8704”, was adopted. Vote: 11-0-0-0.

6d(4) TRACT NO. 8737 - Capitol Expressway and Copperfield Drive - American Stores Realty Corp., a Pennsylvania Corporation - 8 commercials lots. Adoption of resolutions approving the plans, final map, and contract for Tract No. 8737. CEQA: Resolution No. 64433. District 7. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 66039, entitled: “A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8737”; Resolution No. 66040, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8737”; Resolution No. 66041, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8737”, were adopted. Vote: 11-0-0-0.

6d(5) TRACT NO. 8741 - West side of Almaden Road, 140 feet north of Mockingbird Hill Lane - Shamshon Sarmecanic, et. al. - 9 single family residential lots. Adoption of resolutions approving the plans, final map, and contract for Tract No. 8741. CEQA: ND. District 10. (Public Works)

6d(5) (Cont'd.)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 66042, entitled: "A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8741"; Resolution No. 66043, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8741"; Resolution No. 66044, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8741", were adopted. Vote: 11-0-0-0.

6d(6) TRACT NO. 8749 - North side of State Route 237 and on both sides of north First Street - Richard T. Peery and John Arrillaga, as individuals - 7 industrial lots. Adoption of resolutions approving the plans, final map, contract and the water main extension for Tract No. 8749. CEQA: ND. District 4. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 66045, entitled: "A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8749"; Resolution No. 66046, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8749"; Resolution No. 66047, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8749"; and Resolution No. 66048, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8749", were adopted. Vote: 11-0-0-0.

6d(7) TRACT NO. 8759 - Northwest corner of Yerba Buena Avenue and Yerba Buena Road - M.J. Brock & Sons, Inc., a Delaware Corporation, D.B.A. Ryland Homes - 40 single family detached residential units. Adoption of resolutions approving the plans, final map, contract and the water main extension for Tract No. 8759. CEQA: ND. District 8. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending adoption of said resolutions.

6d(7) (Cont'd.)

Discussion/Action: Resolution No. 66049, entitled: "A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8759"; Resolution No. 66050, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8749"; Resolution No. 66051, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8759"; and Resolution No. 66052, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8759, were adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Approval of an agreement with Dental Benefit Providers of California to administer orthodontic cases approved prior to April 1, 1995 for the period July 1, 1995 to June 30, 1996.
(Human Resources)
[Deferred from 6/6/95 and 6/13/95 - Item 6e(25)]**

Documents filed: See documents filed under Item 6e(3) in City Council minutes of June 6, 1995.

Discussion/Action: The agreement with Dental Benefit Providers of California was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(2) Approval of a lease with the United States of America/Federal Aviation Administration (FAA) for the operation of the Instrument Landing System for a year-to-year term not to extend beyond September 30, 2010, at no cost to the lessee. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated June 8, 1995, recommending approval of said lease with the Federal Aviation Administration.

Discussion/Action: The lease with the FAA was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(3) Approval of amendments to the agreements for participation in the San José Municipal Health Services Program with Gardner Health Center, Inc., the County of Santa Clara, and Family Health Foundation of Alviso, extending the terms through June 30, 1996. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 19, 1995, recommending approval of the amendments to said agreements.

Discussion/Action: The amendments to said agreements with Gardner Health Center, Inc., the County of Santa Clara, and Family Health Foundation of Alviso, were approved and their execution authorized. Vote: 11-0-0-0.

- 6e(4) Approval of the ninth amendment to the agreement for legal services with Hoge, Fenton, Jones & Appel, extending the term through June 30, 1996. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 8, 1995, recommending approval of the amendment to said agreement.

Discussion/Action: The ninth amendment to said agreement with Hoge, Fenton, Jones & Appel was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(5) Approval of an agreement with John Montgomery for the provision of services as the City's Legislative Representative in Washington, D.C., for the period July 1, 1995 to June 30, 1996, in an amount not to exceed \$99,822. (City Manager's Office)**

Documents filed: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated June 8, 1995, recommending approval of said agreement.

Discussion/Action: The agreement with John Montgomery was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(6) Approval of an employment agreement with Cay Denise Carn to serve as a Special Projects Manager for the period July 1, 1995 to June 30, 1996, in an amount not to exceed \$59,578. (City Manager's Office)**

Documents filed: Memorandum from Sr. Deputy City Manager, Darrell Dearborn, dated June 14, 1995, recommending approval of said agreement.

6e(6) (Cont'd.)

Discussion/Action: The employment agreement with Cay Denise Carn was approved and its execution authorized. Vote: 11-0-0-0.

6e(7) Approval of a first amendment to the agreement with Larry Sultan and Michael Mandel for the design of the Bay Area Figure Skating commemorative public art to be located in Confluence West of the Guadalupe River Park increasing the compensation by \$2,900, from \$44,000 to \$46,900. (Convention, Cultural and Visitor Services)

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated June 8, 1995, recommending approval of a first amendment to said agreement.

Discussion/Action: The first amendment to said agreement with Larry Sultan and Michael Mandel was approved and its execution authorized. Vote: 11-0-0-0.

6e(8) Adoption of a resolution authorizing the City Manager to negotiate and execute a facility use agreement with Apple Computer, Inc., governing the use of the San Jose McEnery Convention, Civic Auditorium, and Parkside Hall for the Apple Worldwide Developers Conferences 1996 through 2000. (Convention, Cultural and Visitor Services)

Documents filed: (1) Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated June 22, 1995 recommending approval of said facility use agreement. (2) Supplemental memorandum from City Attorney Joan R. Gallo, dated June 27, 1995, recommending authorization for the City Manager to modify the standard indemnification clause.

Discussion/Action: Resolution No. 66053, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Facility Use Agreement with Apple Computer, Inc.," was adopted. Vote: 11-0-0-0.

6e(9) Adoption of a resolution authorizing the City Manager to negotiate and execute:
(a) A twenty (20) year agreement with California Trolley and Railroad Corporation (CTRC), formerly known as the San José Trolley Corporation, for support of the Trolley Barn and related activities at the San José Historical Museum.

6e(9) (Cont'd.)

- (b) An agreement with CTRC for construction and installation of trolley tracks at the San José Historical Museum and Kelley Park.
(Convention, Cultural and Visitor Services)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 27, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66054, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Two Agreements with the California Trolley and Railroad Corporation", was adopted. Vote: 11-0-0-0.

- 6e(10) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the Silicon Valley Arts Fund Trust Agreement, transferring the remaining \$150,000 of the \$300,000 challenge grant to the Silicon Valley Arts Fund. (Convention, Cultural and Visitors Services)**

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated June 14, 1995, recommending authorization to negotiate and execute said amendment.

Discussion/Action: Resolution No. 66055, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Amendment to the Agreement with the Community Foundation of Santa Clara County to Award an Additional Grant to the Silicon Valley Arts Fund", was adopted. Vote: 11-0-0-0.

- 6e(11) Approval of Mayor and City Council Assistant employment agreements for 1995/96. (Council/Mayor)**

Documents filed: Memorandum from City Clerk, Patricia L. O'Hearn, dated June 27, 1995, recommending approval of said employment agreements.

Discussion/Action: The employment agreements for Tony Arreola, Brian Bennert, Richard Bongiovanni, Rhunda Boudreaux, Bob Brownstein, Rick Callendar, Nora Campos, Veronica Davey, Roma Dawson, Norberto Duenas, Tona Duncanson, Julie Ann Fink-White, David Garretson, Joe Guerra, Helen Hayashi, Chris Hemingway, Margarita Huertas, Cynthia James, Kelly Kline, Scarlett Li Lam, Katherine Manchester,

6e(11) (Cont'd.)

Michelle McGurk, Andrew Mendoza, Sean Morley, Kimberly Mulcahy, Kevin Pursglove, Gary Robinson, Noella Tabladillo, Margaret Tamisiea, Eva Terrazas, Angela Townsend, and Dawn Wright, were approved and their execution authorized. Vote: 11-0-0-0.

6e(12) Approval of an employment agreement with Mary Jo Albee as a Strategic and Legislative Assistant for the period July 1, 1995 to June 30, 1996, in an amount not to exceed \$54,000. (Environmental Services)

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 8, 1995, recommending approval of said employment agreement.

Discussion/Action: The employment agreement with Mary Jo Albee was approved and its execution authorized. Vote: 11-0-0-0.

6e(13) Adoption of a resolution:

- (a) Approving the acceptance of additional grant funds in the amount of \$20,500 from the California Integrated Waste Management Board (CIWMB) in 1996-97 to extend the current demonstration project for the agricultural use of yard trimmings products from the City's recycling programs;**
 - (b) Approving a first amendment to the agreement with the CIWMB and amend agreements with other subcontractors necessary to implement the grant extension; and**
 - (c) Providing \$10,000 in matching funds from amounts included in the Fiscal Year 1995-96 Proposed Operating Budget for laboratory testing of yard trimmings products.**
- (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66056, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept Grant Funds from the California Integrated Waste Management Board for the Extension of the Composting Demonstration Projects, Authorizing the City Manager to Execute Documents Necessary to Implement the Extension, and Approving \$10,000 in Matching Funds", was adopted. Vote: 11-0-0-0.

- 6e(14) Approval of a second amendment to the agreement with Higgins and Associates for additional services, technical assistance, and training on team building, process improvements and identification, and strategic planning increasing the amount by \$81,000, from \$49,000 to \$130,000, and extending the term of the agreement by one (1) year, from June 30, 1995 to June 30, 1996. (Environmental Services)**

Documents filed: None.

Discussion/Action: This item was deferred to August 8, 1995.

- 6e(15) Approval of an agreement with Greenwaste Recovery, Inc., Peninsula Sanitary Services, Inc., Greenteam of San José, Green Valley Disposal Company, Inc., and Green Valley Disposal and Recycling Company, Inc., consenting to the substitution of Green Valley Disposal and Recycling Co., Inc., in the place of Green Valley Disposal Company, Inc., as a joint venturer of Green Team of San José under the Recycle Plus agreements for District A and for multi-family integrated waste management services. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 8, 1995, recommending approval of said agreement.

Discussion/Action: The agreement with Greenwaste Recovery, Inc., Peninsula Sanitary Services, Inc., Greenteam of San José, Green Valley Disposal Company, Inc., and Green Valley Disposal and Recycling Company, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(16) (a) Approval of first amendments to the investment management agreements, extending the terms by three (3) years, from June 30, 1995 to June 30, 1998, with:**
- (1) Chancellor Capital Management, Inc.**
 - (2) PCM International, Inc.**
 - (3) Smoot, Miller, Cheney & Company.**
 - (4) Scudder, Stevens & Clark, Inc.**
 - (5) Barring International.**
- (b) Approval of second amendments to the investment management agreements, extending the terms by three (3) years, from June 30, 1995 to June 30, 1998, with:**
- (1) American National Bank.**
 - (2) Brinson Partners, Inc.**

6e(16) (Cont'd.)

- (b) (Cont'd.)**
 - (3) Putnam Advisory Company, Inc.**
 - (4) Rhumblin Advisors.**
 - (5) Smith Graham & Company.**
 - (c) Approval of a fourth amendment to the custodian bank agreement with Bankers Trust Company, extending the term of the agreement by three (3) years, from June 30, 1995 to June 30, 1998. (Police & Fire Retirement Plan)**
 - (d) Approval of a first amendment to the investment management agreement with Investment Advisors, Inc., Houston, extending the term of the agreement on a month-to-month basis.**
 - (e) Approval of a first amendment to the investment management agreement with Wilmington Capital Management approving the consolidation with and assignment to Wilmington Trust Co. (Federated)**
 - (f) Approval of a first amendment to the real estate advisor agreement with MIG Realty Advisors, extending the term of the agreement by three (3) months, from June 30, 1995 to September 30, 1995.**
- (Federated and Police and Fire Retirement Boards)**

Documents filed: Memorandum from the Federated and Police and Fire Retirement Boards, dated June 8, 1995, recommending approval of the amendments to said agreements.

Discussion/Action: The amendments to said agreements were approved and their execution authorized. Vote: 11-0-0-0.

6e(17) Adoption of a resolution authorizing the City Manager to negotiate and execute a continuation agreement with Rauscher, Pierce, Refsnes, Inc., for services as financial advisor for the Capitol Expressway Auto Mall Financing Project extending the term of the agreement by eighteen (18) months, from December 31, 1994 to June 30, 1996, at no additional cost to the City. (Finance)

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66057, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Agreement with Rauscher, Pierce, Refsnes, Inc., to Serve as Financial Advisor for the Capitol Expressway Automall Financing Project", was adopted. Vote: 11-0-0-0.

- 6e(18) Adoption of a resolution authorizing the City Manager to negotiate and execute first amendments to the Master Repurchase Agreements, extending the term of the agreements by two (2) years, from June 30, 1995 to June 30, 1997, with:**
- (a) BA Securities.**
 - (b) First Tennessee Bank N.A.**
 - (c) Zions First National Bank.**
- (Finance)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 13, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66058, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Continuations to Master Repurchase Agreements with BA Securities, First Tennessee Bank N.A., and Zions First National Bank”, was adopted. Vote: 11-0-0-0.

- 6e(19) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1994-95 #26, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending approval of said open purchase orders.

Discussion/Action: The open purchase order List No. 26 for FY 1994-95 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

- 6e(20) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #1, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Discussion/Action: (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending approval of said open purchase orders. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said open purchase orders.

Discussion/Action: The open purchase order List No. 1 for FY 1995-96 was approved and their execution authorized. Vote: 11-0-0-0.

6e(21) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #2 and authorization for the Director of General Services to execute the purchase orders. (General Services)

Discussion/Action: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending approval of said open purchase orders.

Discussion/Action: The open purchase order List No. 2 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

6e(22) Adoption of a resolution authorizing the Director of General Services to execute an amendment to the Bay Area Air Quality Management District (BAAQMD) agreement changing the type of alternative fuel vehicles from dedicated compressed natural gas (CNG) fuel to bi-fuel (CNG/gasoline) vehicles. (General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66059, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Amendment to an Agreement with Bay Area Air Quality Management District (BAAQMD) to Change the Type of Vehicles Purchased", was adopted. Vote: 11-0-0-0.

6e(23) Approval for the Director of General Services to issue open purchase orders to:
(a) Extend the service for removal of grit and screenings to Mission Trails, Inc., by two (2) months, from July 1, 1995 to August 31, 1995, in an amount not to exceed \$40,000.
(b) Extend the service for removal of grease with Waste Management, Inc., by two (2) months, from July 1, 1995 to August 31, 1995, in an amount not to exceed \$10,000.
(General Services)

Documents filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending approval of said open purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated June 9, 1995, recommending award of open purchase orders to Mission Trails, Inc., and to Waste Management, Inc.

Discussion/Action: The open purchase orders with Mission Trails, Inc., and with Waste Management, Inc., were approved and their execution authorized. Vote: 1-0-0-0.

- 6e(24) Approval of award of purchase for network interconnect products consisting of a high-speed Ethernet intelligent switching hub and network interface modules and adapters for the Information Systems Department to the low bidder, Fiber Optic Technologies, Inc., at a total cost of \$115,211.15, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending approval of said award of purchase.

Discussion/Action: The award of purchase to the low bidder, Fiber Optic Technologies, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(25) (a) Approval to reject all bids and to resolicit bids for one (1) 60,000 pound GVWR cab & chassis sewer cleaner truck for the Streets and Parks Department.**
(b) Approval of award of purchase for one (1) sewer cleaner body option to the lowest responsive bidder, Municipal Maintenance Equipment, at a total cost of \$127,981.83, and authorization for the Director of General Services to execute the purchase order.
(General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending approval to reject all bids and resolicit bids for said sewer cleaner truck, and approval of award of purchase for said sewer cleaner body option to the lowest responsive bidder, Municipal Maintenance Equipment.

Discussion/Action: This item was dropped from the Agenda by request of City Manager Williams.

- 6e(26) Adoption of a resolution authorizing the Director of General Services to execute an agreement with Transcad, Inc., for a facilities drawing management system for the Airport Development Division, at a total cost of \$96,100, including tax. (General Services)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending adoption of said resolution.

6e(26) (Cont'd.)

Discussion/Action: Resolution No. 66060, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Transcad, Inc. for a Facilities Drawing Management System for the Airport Development Division at a Total Cost Not to Exceed \$96,100, Including Tax", was adopted. Vote: 11-0-0-0.

6e(27) Adoption of a resolution amending Resolution No. 65785 to specify a revised term of May 31, 1995 to May 30, 1996, for the agreement with AZTEC Consultants/MCE Corporation group for San José Arena maintenance oversight. (General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66061, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 65758 to Specify a Revised Term of May 31, 1995 to May 30, 1996 for the Agreement with Aztec Consultants/MCE Corporation for San José Arena Maintenance Oversight", was adopted. Vote: 11-0-0-0.

6e(28) Approval of a second amendment to the City-wide custodial agreement with Acme Custodial Services for supplemental work, increasing the amount by \$15,000, from \$20,000 to \$35,000, contingent upon Council appropriation of funds. (General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending approval of the amendment to said agreement with Acme Custodial Services was approved and its execution authorized. Vote: 11-0-0-0.

Discussion/Action: The second amendment to said agreement was approved and its execution authorized. Vote: 11-0-0-0.

6e(29) Adoption of a resolution:

- (a) Approving a loan increase in an amount up to \$133,290, from \$2,910,000 to \$3,043,290, to Emergency Housing Consortium for the permanent financing of the Monterey Glen Inn Single Room Occupancy (SRO), a 95-unit SRO rental housing project affordable to very low-income singles and couples on a 2.6 acre site located at 2112 Monterey Road.**

6e(29) (Cont'd.)

- (b) Approving business terms for the permanent loan.**
- (c) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing such loan on behalf of the City.**
(Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66062, entitled: "A Resolution of the Council of the City of San José (i) Approving a Loan Increase in an Amount of Up to \$133,290 (For a Total Loan of \$3,043,290) to Emergency Housing Consortium for the Permanent Financing of the Monterey Glen Inn SRO, A 95-Unit SRO Rental Housing Project Affordable to Very Low-Income Singles and Couples, on a 2.6 Acre Site Located at 2112 Monterey Road, (ii) Approving Business Terms for the Permanent Loan, and (iii) Authorizing the Director of Housing to Negotiate and Execute all Necessary Documents Evidencing Such Loan on Behalf of the City", was adopted. Vote: 11-0-0-0.

6e(30) Approval of an agreement with Dr. Les Cordes to provide physician services for the period July 1, 1995 to June 30, 1996, in an amount not to exceed \$130,000. (Human Resources)

Documents filed: Memorandum from Director of Human Resources, Nona Tobin, dated June 8, 1995, recommending approval of said agreement.

Discussion/Action: The agreement with Dr. Les Cordes was approved and its execution authorized. Vote: 11-0-0-0.

6e(31) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with Metricom Incorporated increasing the number of wireless data radio repeaters located on streetlight poles by 300, from 700 to 1,000, increasing the annual revenue to the City by \$18,000, from \$42,000 to \$60,000, and the installation of a Wired Access Point for the City's use. (Information Systems)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, 1995, recommending adoption of said resolution.

6e(31) (Cont'd.)

Discussion/Action: Resolution No. 66063, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Non-Exclusive Installation and Service Agreement with Metricom, Inc., to Increase the Number of Street Light Poles Upon Which Wireless Data Radio Repeaters may be Installed from 700 to 1,000, at an Annual Rate of at Least \$60, and to Provide for the Installation By Metricom of a Wired Access Data Communications Network for the City's Use", was adopted. Vote: 11-0-0-0.

6e(32) Adoption of a resolution:

- (a) Authorizing the Human Services Administrator to execute the Community Development Block Grant (CDBG) grant agreement and to take any other actions necessary to implement the Fiscal Year 1995-96 Program, including executing and amending agreements with Community Based Organizations funded through CDBG and the General Fund.**
- (b) Designating the Director of Planning, Building and Code Enforcement as the certifying officer for purposes of complying with the National Environmental Policy (NEPA) requirements of the Community Development Block Grant Program.**

(Neighborhood Services)

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66064, entitled: "A Resolution of the Council of the City of San José (1) Authorizing the Human Resources Administrator to Execute the CDBG Grant Agreement and to Take Any Other Actions Necessary to Implement the 1995-96 Program, Including Executing and Amending Agreements with Community Based Organizations Funded Through CDBG and the General Fund; and (2) designating the Director of Planning, Building and Code Enforcement the Certifying Officer for Purposes of Complying with the National Environmental Policy Act (NEPA) Requirements of the Community Development Block Grant Program", was adopted. Vote: 11-0-0-0.

6e(33) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the East Side Union High School District for the operation of the District's seven (7) swimming pools for the period June 1, 1995 to August 31, 1995, in an amount not to exceed \$97,000. (Neighborhood Services)

6e(33) (Cont'd.)

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66065, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Grant Agreement with East Side Union High School District for Operation of Swimming Pools During the Summer in an Amount Not to Exceed \$97,000", was adopted. Disqualified: Fernandes, as a family member is employed by the District.

6e(34) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Catholic Charities for the senior citizens program at Eastside Community Center for the period July 1, 1995 to June 30, 1996, in an amount not to exceed \$105,090. (Neighborhood Services)

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66066, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Agreement with Catholic Charities of Santa Clara County for Services to be Provided to Senior Citizens at the Eastside Community Center for a Term Commencing on July 1, 1995 and Expiring on June 30, 1996, in an Amount Not to Exceed \$105,090", was approved. Vote: 11-0-0-0.

6e(35) Adoption of a resolution authorizing the City Manager to negotiate and execute agreements for the Youth Employment Program for the period July 1, 1995 to June 30, 1996, with:

- (a) Asian Americans for Community Involvement (AACI) in the amount of \$25,000.**
 - (b) Center for Training and Careers (CTC) in the amount of \$54,000.**
 - (c) Filipino Youth Coalition (FYC) in the amount of \$36,500.**
 - (d) Mexican American Community Services Agency (MACSA) in the amount of \$106,297.**
 - (e) San José Conservation Corps in the amount of \$33,163.**
 - (f) Second Start in the amount of \$22,190.**
- (Neighborhood Services)**

6e(35) (Cont'd.)

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66067, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Fiscal Year 1995-96 Grant Agreements for Youth Employment Programs", was adopted. Vote: 11-0-0-0.

6e(36) Approval of a first amendment to the agreement with the Hispanic Chamber of Commerce, extending the term of the agreement for four (4) months, from July 1, 1995 to October 31, 1995, at no additional cost to the City. (Office of Economic Development)

Documents filed: Memorandum from Director of Economic Development, Leslie Parks, dated June 8, 1995, recommending approval of the amendment to said agreement.

Discussion/Action: The first amendment to the agreement with the Hispanic Chamber of Commerce was approved and its execution authorized. Vote: 11-0-0-0.

6e(37) Approval of second amendments to the agreement for plan check consultant services extending the agreements for one (1) year, from June 30, 1995 to June 30, 1996, with:

- (a) Kutzmann & Associates increasing the compensation by \$41,000, from \$43,000 to \$84,000.
- (b) R.K. Associates increasing the compensation by \$39,000, from \$23,000 to \$62,000.
- (c) Linhart, Petersen, Powers Associates increasing the compensation by \$55,000, from \$29,000 to \$84,000.

(Planning, Building and Code Enforcement)

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated June 8, 1995, recommending approval of the second amendments to said agreements.

Discussion/Action: The second amendments to said agreements with Kutzmann & Associates, R.K. Associates, and Linhart, Petersen, Powers Associates, were approved and their execution authorized. Vote: 11-0-0-0.

- 6e(38) (a) **Report on bids and award of contract for the Installation of Streetlights 95A Project to the low bidder, San José Signal Electric Construction, Inc., in the amount of \$161,038. CEQA: Exempt. (Public Works)**
- (b) **Report on bids and award of contract for the Installation of Streetlights 95B Project to the low bidder, G.A.B. Construction, Inc., in the amount of \$153,442 and approval of a ten (10) percent contingency in the amount of \$16,000. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 8 and June 21, 1995, recommending the award of said contracts.

Discussion/Action: The award of contract for Installation of Streetlights 95A Project to the low bidder, San José Signal Electric Construction, Inc.; and award of contract and approval of a ten-percent contingency for Installation of Streetlights 95B Project to the low bidder, G.A.B. Construction, Inc., were approved and their execution authorized. Vote: 11-0-0-0.

- 6e(39) **Report on bids and award of contract for the Traffic Signal Installation at First Street and Headquarters Drive-Vista Montana Project to the low bidder, Pacific Electric Company, in the amount of \$103,131. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 8 and June 21, 1995, recommending award of contract to the low bidder, Pacific Electric Company.

Discussion/Action: The award of contract to the low bidder, Pacific Electric Company, was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(40) **Approval of an agreement with Creegan and D'Angelo for consultant services for the design and construction monitoring of the North San Jose/Alviso Reservoir Project for the period July 3, 1995 to December 31, 1996, in the amount of \$84,000, and additional services in an amount not to exceed \$10,000. CEQA: ND. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending approval of said agreement.

Discussion/Action: The agreement with Creegan and D'Angelo was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(41) Report on bids and award of contract for the Alviso Force Main Modification Project to the low bidder, J.W. Ebert, Inc., in the amount of \$196,088, and approval of a contingency in the amount of \$30,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending award of contract to the low bidder, J.W. Ebert, Inc.

Discussion/Action: The award of contract to the low bidder, J.W. Ebert, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(42) Report on bids and approval to reject the sole bid for the McLaughlin-Story Sanitary Sewer Improvements Project. CEQA: ND. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending approval to reject the sole bid for said project.

Discussion/Action: The rejection of the sole bid was approved. Vote: 11-0-0-0.

- 6e(43) Adoption of a resolution approving an agreement with the Cities of Fremont and Milpitas for the Extension of McCarthy Boulevard Connection and McCarthy Boulevard Bridge Project over Coyote Creek. CEQA: Resolution No. 61841. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66068, entitled: "A Resolution of the Council of the City of San José Approving an Agreement with the Cities of Milpitas and Fremont for the Extension of the McCarthy Boulevard Connection and the McCarthy Boulevard Bridge" was adopted. Vote: 11-0-0-0.

- 6e(44) Approval of agreements for the Underground Utility District at Almaden Road to replace aerial facilities with underground facilities from Scaletta Lane to Virgil Place with:**

(a) Pacific Gas and Electric in the amount of \$182,867.

(b) Pacific Bell in the amount of \$42,246.

CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending approval of said agreements.

6e(44) (Cont'd.)

Discussion/Action: The agreements with Pacific Gas and Electric and Pacific Bell were approved and their execution authorized. Vote: 11-0-0-0.

6e(45) was removed from the Consent Calendar and heard separately.

6e(46) Approval of the subcontractor substitution of Airport Pavement Markings in place of J.F. Hourigan Company to perform the striping and pavement marking work for the Taxiway Zulu Reconstruction Project, at no cost to the City. CEQA: ND. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending approval of said subcontractor substitution.

Discussion/Action: The substitution of Airport Pavement Markings in place of J.F. Hourigan Company for said project was approved and its execution authorized. Vote: 11-0-0-0.

6e(47) Approval of a grant agreement with the Union School District for playfield turf and irrigation system renovation at the Athenour Elementary School site, in an amount not to exceed \$79,000. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending approval of said grant agreement.

Discussion/Action: The grant agreement with the Union School District was approved and its execution authorized. Vote: 11-0-0-0.

6e(48) Report on bids, waive minor bid irregularities, and award of contract for the Brigadoon Tot Lot Renovation Project to Plan Construction Company, Inc., in the amount of \$84,434, and approval of a contingency in the amount of \$8,000. CEQA: Exempt. (Public Works)

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 8 and June 21, 1995, recommending waiver of said bid irregularities and award of said contract to the low bidder, Plan Construction Company, Inc., and approval of said contingency.

6e(48) (Cont'd.)

Discussion/Action: The award of contract to Plan Construction Company, Inc., and approval of said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

6e(49) Approval of Contract Change Order No. 54 for the Silver Creek Valley Country Club Phase I Grading Project between Shea Homes and Granite Construction in the amount of \$57,228.42, as provided for in the Integrated Finance District No. 88-203SJ (Silver Creek Development) Cooperation Agreement with Shea Homes, for a total City share in the amount of \$7,734,111.51. CEQA: Resolution No. 61784. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending approval of said change order.

Discussion/Action: Contract Change Order No. 54 was approved and its execution authorized. Vote: 11-0-0-0.

**6e(50) Report on bids and award of contract for the Hellyer Avenue Repair Phase II Project to the low bidder, Duran & Venables, Inc., in the amount of \$122,594.50. CEQA: Exempt. (Public Works)
[Deferred from 4/25/95 et al., and 6/20/95 - Item 6e(1)]**

Documents filed: None.

Discussion/Action: This item was deferred to August 8, 1995.

**6e(51) Approval of a first amendment to the agreement with Gibson-Speno Richmond Associates and Testamentary Trust created by the Will of Edmund N. Richmond, deceased, to specify the possible uses of the funds raised under the agreement regarding Richmond Ranch. (Public Works)
[Deferred from 6/6/95 and 6/20/95 - Item 6e(3)]**

Documents filed: None.

Discussion/Action: This item was deferred to August 8, 1995.

6e(52) was removed from the Consent Calendar and heard separately.

- 6e(53) Report on bids and award of contract for The Alameda Streetscape Neighborhood Business District Improvements - Phase II Project to the low bidder, Collishaw Construction, to include the base bid only, in the amount of \$208,930, and approval of a contingency in the amount of \$20,900. (Public Works)
[Deferred from 6/20/95 - Item 6e(21)]**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 1 and June 23, 1995, recommending award of contract to the low bidder, Collishaw Construction, and approval of a contingency in the amount of \$20,900.

Discussion/Action: The award of contract to the low bidder, Collishaw Construction, and said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

- 6e(54) Approval of employment agreements with Nancy Duong and Luz Maria Solis. (Independent Police Auditor)
(Rules Committee referral 6/21/95)**

Documents filed: Memorandum from City Clerk, Patricia L. O'Hearn, dated June 27, 1995, recommending approval of said employment agreements.

Discussion/Action: The employment agreements with Nancy Duong and Luz Maria Solis was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(55) Adoption of a resolution authorizing the City Clerk to execute an agreement with the Harvey M. Rose Accountancy Corporation in an amount not to exceed \$85,000 for revenue consulting services in connection with the work being done by the New Realities Task Force. (Mayor's Office)
(Rules Committee referral 6/21/95)**

Documents filed: Memorandum from Mayor Hammer, dated June 26, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66069, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with the Harvey M. Rose Accountancy Corp. in an Amount Not to Exceed \$85,000.00", was adopted. Vote: 11-0-0-0.

- 6e(56) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the Family Health Foundation of Alviso, in the amount of \$200,000, for the purchase of the building in which the Foundation's clinic is located at 3030 Alum Rock Avenue. (Mayor's Office)
(Rules Committee referral 6/21/95)**

Documents filed: None.

Discussion/Action: Resolution No. 66070, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the Family Health Foundation of Alviso in the Amount of \$200,000 for the Purchase of the Building Located at 3030 Alum Rock Avenue", was adopted. Vote: 11-0-0-0.

- 6e(57) Approval of an employment agreement with Chris Hotts. (Dando)
(Rules Committee referral 6/21/95)**

Documents filed: None.

Discussion/Action: The employment agreement with Chris Hotts was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(58) (a) Approval of San José BEST Cycle V Allocation Plan for Fiscal Year 1995-96.
(b) Approval of list of San José BEST Qualified Providers.
(c) Approval of Independent Evaluation of San José BEST Cycle IVa.
(d) Adoption of a resolution authorizing the City Manager to negotiate and execute the Cycle V San José BEST grant agreements in accordance with the approved Allocation Plan.
[Deferred from 6/20/95 - Item 9z(4)]
(Neighborhood Services)**

Documents filed: See documents filed under Item 9z in City Council minutes of June 20, 1995.

Discussion/Action: The City Council heard this issue under Item 9z at its meeting of June 20, 1995, and on that date the Council approved the San José BEST Cycle V Allocation Plan for Fiscal Year 1995-96, approved the List of Qualified Providers, accepted the Independent Evaluation of San José BEST Cycle IVa, authorized the City Manager to negotiate and execute the Cycle V San José BEST grant agreements in

6e(58) (Cont'd.)

accordance with the approved Allocation Plan, referred the overall evaluation process to the Housing & Community Services Committee for review, to include discussion of concerns related to outreach programs and allocations for Vietnamese youth; and under the Consent Calendar on June 27, 1995, Resolution No. 66071, entitled: "A Resolution of the Council of the City of San José Approving the San José Best Cycle V Allocation Plan, Approving the List of Eligible, Qualified San José Best Providers for Cycle V, Approving the Evaluation of San José Best Cycle IV(A) Providers and Authorizing the City Manager the Authority to Negotiate and Execute Cycle V San José Best Grant Agreements with Qualified Providers", was adopted. Vote: 11-0-0-0.

- 6e(59) (a) Approval of a first amendment to the Animal Services Agreement between the Humane Society of Santa Clara Valley and the Cities of Milpitas, San Jose, and Santa Clara extending the term of the agreement by two (2) months, from June 30, 1995 to August 31,1995, and to provide for compensation in an amount not to exceed \$369,400.**
- (b) Approval of a first amendment to the Animal Services Coordination and Restated Cost Sharing Agreement between the Cities of Milpitas, San Jose, and Santa Clara extending the agreement by two (2) months, from June 30, 1995 to August 31, 1995.**

(City Manager's Office)

(Rules Committee referral 6/21/95)

Documents filed: Memorandum from Sr. Executive Assistant, Mike McInerney, dated June 16, 1995, recommending approval of the amendments to said agreement.

Discussion/Action: The first amendment to the Animal Services Agreement and the Animal Services Coordination between the Humane Society of Santa Clara Valley and the Cities of Milpitas, San Jose, and Santa Clara and Restated Cost Sharing Agreement between the Cities of Milpitas, San Jose, and Santa Clara, were approved and their execution authorized. Vote: 11-0-0-0.

- 6e(60) Adoption of a resolution authorizing the City Manager to negotiate and execute a continuation agreement with Emergency Care Information Center (ECIC) for Option D Advanced Life Support (ALS) Implementation Services, extending the term by 3 months, from June 1, 1995 to August 31, 1995 and increasing the compensation by \$12,000, from \$101,540 to \$113,540. (Fire)**
- (Rules Committee referral 6/21/95)**

6e(60) (Cont'd.)

Documents filed: Memorandum from Fire Chief Raymond Brooks, dated June 23, 1995, recommending approval of said continuation agreement.

Discussion/Action: Resolution No. 66072, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Continuation Agreement with JEMS Communications to Extend the Term of the Agreement from June 1, 1995 to August 31, 1995 and to Increase the Compensation from \$101,540 to \$113,540", was adopted. Vote: 10-1-0-0. Noes: Fiscalini.

**6e(61) Adoption of a resolution delegating to the City Manager the authority to negotiate and execute an employment agreement with an Interim Executive Director for the San José Historical Museum. (City Manager's Office)
(Rules Committee referral 6/21/95)**

Documents filed: Memorandum from City Manager Regina V.K. Williams, dated June 27, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66073, entitled: "A Resolution of the Council of the City of San José authorizing the City Manager to negotiate and execute an Employment Agreement with the Interim Historical Museum Director", was adopted. Vote: 11-0-0-0.

**6e(62) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with Stone & Youngberg for financial advisory services for the Hayes Mansion Phase II Improvement Project Financing at no additional cost to the City. (Finance)
(Rules Committee referral 6/21/95)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 21, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66074, entitled: "A Resolution of the Council of the City of San José authorizing the City Manager to negotiate and execute an Amendment to Agreement with Stone & Youngberg for Financial Advisory Services in Connection with the Hayes Mansion Phase II Improvement Project Financing to Modify the Scope of Services", was adopted. Vote: 11-0-0-0.

- 6e(63) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Concern for the Poor in an amount not to exceed \$60,000 for the renovation of bathrooms at the San José Family Shelter. (Housing)
Rules Committee referral 6/21/95)**

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 22, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66075, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with Concern for the Poor in an Amount Not to Exceed \$60,000 for the Renovation of the Bathrooms at the San José Family Shelter, Which Provides Shelter and Services for Homeless Families", was adopted. Vote: 11-0-0-0.

6e(64) was removed from the Consent Calendar and heard last with Item 6b(2).

- 6e(65) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Our City Forest in the amount of \$90,000. (Streets and Parks)
(Rules Committee referral 6/21/95)**

Documents filed: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated June 21, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66076, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Grant Agreement with Our City Forest in an Amount Not to Exceed \$90,000", was adopted. Vote: 11-0-0-0.

- 6e(66) Approval of an agreement with Shapell Industries, Inc., for the financing of infrastructure improvements and facilities in the Evergreen Specific Plan area. (Public Works)
(Orders of the Day 4a)**

Documents filed: None.

Discussion/Action: This item was dropped from the Agenda.

- 6e(67) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Breakout Ministries to provide annual gang intervention coordination and consultation services to the Department of Neighborhood Services and to provide summer recreational activities to gang-involved youth in the Washington School area in an amount not to exceed \$64,100. (Neighborhood Services)
(Orders of the Day 4d)**

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated June 23, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66077, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Breakout Ministries", was adopted. Vote: 11-0-0-0.

- 6e(68)** This item was removed from the Consent Calendar and heard separately.

Routine Legislation

- 6f(1) Adoption of a resolution authorizing the reorganization of territory designated as Evergreen No. 180, which involves the annexation to the City of San José of 324+ acres of land, located on the southeast corner of Quimby Road and Ruby Avenue and the detachment of the same from the Central Fire District. CEQA: Resolution No. 63179. (Planning, Building and Code Enforcement)
[Deferred from 5/2/95 - Item 6f(4)]**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated April 14, 1995, recommending adoption of said resolution.

Discussion/Action: This item was dropped from the Agenda.

- 6f(2) Adoption of a resolution to amend Resolution No. 51872, Exhibit 99, to create the class of Supervising Plan Check Engineer (3956) (F/T) at a salary range of 65G. (Human Resources)
[Deferred from 6/13/95 - Item 6f(3)(a)]**

Documents filed: None.

Discussion/Action: This item was deferred to August 8, 1995.

- 6f(3) Adoption of a resolution approving a Cooperation Agreement between the City and Redevelopment Agency, granting the Agency \$71,428.57 per year for seven (7) years, for a total not to exceed \$500,000, from the City's Development Enhancement Fund, to facilitate the construction of the StrataCom building by Berg & Berg in East Edenvale.
[Redevelopment Agency referral 6/15/95 - Item 9a(2)]**

Documents filed: See Item 11a.

Discussion/Action: This item was renumbered to 11a.

- 6f(4) Adoption of a resolution establishing 1995-96 General Aviation Fees, Rates, and Charges for City Managed Tie-Down Parking, Hangar, Shelter Spaces, and fees for certain fueling activities at San José International Airport and repealing Resolution No. 63693. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66078, entitled: "A Resolution of the Council of the City of San José Establishing 1995-'96 General Aviation Fees, Rates and Charges for City Shelter, Hangar, and Shelter Spaces and Fees for Certain Fueling Activities at San José International Airport, and Repealing Resolution No. 63693", was adopted. Vote: 11-0-0-0.

- 6f(5) Authorization to issue a Request for Proposals for the Display Advertising Concession at San José International Airport. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated June 8, 1995, recommending authorization to issue a Request for Proposals.

Discussion/Action: This item was dropped from the Agenda.

- 6f(6) Adoption of a resolution authorizing the City Manager to submit a grant application to the David and Lucile Packard Foundation in the amount of \$26,470, for the continued development and enhancement of the City of San José Volunteer Program. (City Manager's Office)**

Documents filed: Memorandum from City Manager Regina V.K. Williams, dated June 23, 1995, recommending adoption of said resolution.

6f(6) (Cont'd.)

Discussion/Action: Resolution No. 66079, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the David and Lucile Packard Foundation for a Grant for the City of San José Volunteer Program in an Amount Not to Exceed \$26,470", was adopted. Vote: 11-0-0-0.

6e(7) Adoption of a resolution to establish facility use fees for the Convention Center and Civic Auditorium Complex for calendar years 1997 and 1998, establish facility use fees for the Center for the Performing Arts and Montgomery Theater for Fiscal Year 1995-96, and supersede the previous rate Resolution No. 65393. (Convention, Cultural and Visitor Services)

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated June 22, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66080, entitled: "A Resolution of the Council of the City of San José to Revise the Rate Schedule for the Convention Center and Other Related Facilities Managed by the Department of Convention, Cultural and Visitor Services (to be Known as Conventions, Arts and Entertainment)", was adopted. Vote: 11-0-0-0.

6f(8) Adoption of a resolution to accept a donation of \$6,000 from the Joseph B. Ridder Memorial Trust Fund to the Arts Express Celebration Program. (Convention, Cultural and Visitor Services)

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66081, entitled: "A Resolution of the Council of the City of San José Accepting a Gift of \$6,000 from the Joseph B. Ridder Memorial Trust Fund to the Arts Express Program", was adopted. Vote: 11-0-0-0.

6f(9) (a) Approval of the appointments to the San José Beautiful Steering Committee for a two (2) year term effective June 1995: Steve Caloca, Cecelia Daline, Julia Duncan, Marcia Harmon, Sara Langton, Bob Llewellyn, J. R. Orlando, and Gilbert Valverde.

6f(9) (Cont'd.)

- (b) Reappointment of the Steering Committee members: Patti Benkert, Pallas Hansen, Jennifer Lamb, Brian O'Halloran, Jane K. Starbird, and Valerie Tench.
(Neighborhood Services)**

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated June 8, 1995, recommending appointments to the San José Beautiful Steering Committee.

Discussion/Action: The appointments of Steve Caloca, Cecelia Daline, Julia Duncan, Marcia Harmon, Sara Langton, Bob Llewellyn, J. R. Orlando, and Gilbert Valverde for a two (2) year term effective June 1995; and reappointments of Patti Benkert, Pallas Hansen, Jennifer Lamb, Brian O'Halloran, Jane K. Starbird, and Valerie Tench to the San José Beautiful Steering Committee, were approved. Vote: 11-0-0-0.

- 6f(10) Approval of a refund for weed abatement charges in the amount of \$287 assessed on Parcel Number 581-30-035, owned by Janice and Sidney Takenishi. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated June 8, 1995, recommending approval of said refund of weed abatement charges.

Discussion/Action: The refund of said weed abatement charges on Parcel Number 581-30-035 were approved. Vote: 11-0-0-0.

- 6f(11) Adoption of a resolution authorizing the City Manager to submit a grant application to the California Integrated Waste Management Board for an Enforcement Assistant Grant in the amount of \$25,267, to accept the grant if awarded, and to execute all related documents. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66082, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the California Integrated Waste Management Board for an

6f(11) (Cont'd.)

Enforcement Assistance Grant for Fiscal Year 1995-1996 in an Amount Not to Exceed \$25,267, to accept the grant if awarded, and to execute all related documents”, was adopted. Vote: 11-0-0-0.

6f(12) Adoption of a resolution authorizing the reorganization of territory designated as Coleman No. 38, which involves the annexation to the City of San José of 24.5 acres of land located on the southeast corner of Winfield Boulevard and Chynoweth Avenue, and the detachment of the same from the Central Fire District. CEQA: ND. (Planning, Building and Code Enforcement)

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66083, entitled: “Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Coleman No. 38 Subject to Liability for General Indebtedness of the City”, was adopted. Vote: 11-0-0-0.

6f(13) Acceptance of Planning Commission report on the 24-Hour Use Policy (Council Policy No. 6-27). (Planning Commission)

Documents filed: Memorandum from the Planning Commission, dated June 8, 1995, recommending acceptance of the report and continuation of the 24-Hour Use Policy.

Discussion/Action: The report was accepted. Vote: 11-0-0-0.

6f(14) Adoption of a resolution authorizing the City Manager to submit a grant application to the Technology Theft Prevention Foundation in the amount of \$50,000, to fund on-going and future investigations of high technology firm robberies and burglaries, to accept the grant if awarded, and to execute all related documents. (Police)

Documents filed: Memorandum from Police Chief Louis A. Cobarruviaz, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66084, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an

6f(14) (Cont'd.)

Application to the Technology Theft Prevention Foundation for a Grant for the Investigation of High Technology Crime in an Amount Not to Exceed \$50,000, to Accept the Grant if Awarded, and to Execute all Related Documents”, was adopted. Vote: 11-0-0-0.

6f(15) Adoption of a resolution authorizing the City Manager to submit a grant application to the State of California Office of Criminal Justice Planning for continuation of grant funding in an amount not to exceed \$75,014, for the second year expansion of the Police Department’s Safe Alternatives and Violence Education (S.A.V.E.) Program, to accept the continuation grant if awarded, and to execute all related documents. (Police)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66085, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the State of California Office of Criminal Justice Planning for a Grant for the Safe Alternatives and Violence Education Program in an Amount Not to Exceed \$75,014, to Accept the Grant if Awarded, and to Execute all Related Documents”, was adopted. Vote: 11-0-0-0.

6f(16) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute a utility easement with the City of Santa Clara to allow for the servicing of the proposed Airport employee parking lot and authorizing the Director of Public Works to sign the Grant of Easement and process related documents. CEQA: ND. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66086, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute an Easement to Allow the City of Santa Clara to Install Certain Electrical Distribution Facilities for an Employee Parking Lot at the San José International Airport”, was adopted. Vote: 11-0-0-0.

- 6f(17) Adoption of a resolution authorizing the Director of Public Works to negotiate and sign all necessary documents for the exchange of easements with the County of Santa Clara for the Silicon Valley Boulevard Bridge Project. CEQA: Resolution No. 65660. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66087, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute an Agreement with the County of Santa Clara to Exchange Easements for the Construction of the Silicon Valley Boulevard Bridge", was adopted. Vote: 11-0-0-0.

- 6f(18) Adoption of a resolution authorizing the Director of Public Works to negotiate and sign all necessary documents for the purchase of a storm sewer easement and a temporary construction easement over property owned by the Barrow Family 1994 Family Partnership. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66088, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works the Authority to Negotiate and Execute an Agreement with the Barrow Family 1994 Partnership to Temporary and Permanent Easements for an Amount Not to Exceed \$50,000", was adopted. Vote: 11-0-0-0.

- 6f(19) Adoption of a resolution approving the continuation of the Downtown Retail Validation Program by six (6) months, from July 1, 1995 to December 31, 1995. CEQA: Exempt. (Streets and Parks)**

Documents filed: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66089, entitled: "A Resolution of the Council of the City of San José Approving the Continuation of the Downtown Retail Validation Program to December 31, 1995", was adopted. Vote: 11-0-0-0.

- 6f(20) Adoption of appropriation ordinance amendments in the Life Insurance Fund in the amount of \$100,000 to provide funding for additional claims payouts in Fiscal Year 1994-95. (City Manager's Office)
[Deferred from 6/6/95 et al., and 6/20/95 - Item 6f(8)]**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated May 19, 1995, recommending adoption of said appropriation ordinance amendments.

Discussion/Action: Ordinance No. 24946, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the Life Insurance Fund (Fund 156) in the Amount of \$100,000 to Provide Funding for Additional Claims Payouts in 1994-95; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

- 6f(21) Adoption of a resolution approving modifications to agreements for Convention and Cultural Facilities, to authorize the Director to adjust or refund fees for events using the Convention and Cultural Facilities which have been impacted by circumstances beyond the control of the event and making other clarifying changes.
(Convention, Cultural and Visitor Services)
(Rules Committee referral 6/21/95)**

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated June 21, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66090, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Convention, Cultural and Visitor Services to Negotiate and Execute Facility Use Agreements to Allow Use of Portions of the Convention and Cultural Facilities", was adopted. Vote: 11-0-0-0.

- 6f(22) Adoption of a resolution delegating, on an interim basis, the authority to determine whether public convenience or necessity would be served by the issuance of a State Alcoholic Beverage License to an applicant in an area of undue concentration of ABC licenses. (City Attorney)
(Rules Committee referral 6/21/95)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 22, 1995, recommending adoption of said resolution.

6f(22) (Cont'd.)

Discussion/Action: Resolution No. 66091, entitled: "A Resolution of the Council of the City of San José Delegating, on an Interim Basis, the Authority to Determine Whether Public Convenience or Necessity Would be Served by the Issuance of a State Alcoholic Beverage License to an Applicant in an Undue Concentration Area", was adopted. Vote: 11-0-0-0.

- 6f(23) (a) Adoption of a resolution approving a Memorandum of Agreement with the Municipal Employees Federation and authorizing the City Manager to implement salary adjustments pending ratification.**
(b) Adoption of a resolution approving a salary adjustment to the Memorandum of Agreement with the International Association of Fire Fighters.
(City Manager's Office)
(Rules Committee referral 6/21/95)

Documents filed: Memorandum from Director of Human Resources, Nina Tobin, dated June 27, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 66092, entitled: "A Resolution of the Council of the City of San José (1) Approving the Memorandum of Agreement Between the City of San José and the Municipal Employees Federation, AFSCME, Local 101, Units 5 and 7 (Administrative, Clerical and Custodial Employees); (2) Providing for the Payment of Salary and Benefits Pursuant to the Memorandum of Agreement; (3) Providing that any Conflict Between the Memorandum of Agreement and Salary Resolution Nos. 51870, 51871, and 51872, the Memorandum of Agreement Shall Prevail; and (4) Authorizing the City Manager to Implement Salary Adjustments Pending Ratification", and Resolution No. 66093, entitled: "A Resolution of the Council of the City of San José Approving a Salary Adjustment and Amendment to the Salary Exhibit to the Memorandum of Agreement with the International Association of Firefighters, Local 230, Effective July 2, 1995", were adopted. Vote: 11-0-0-0.

- 6f(24) Approval of travel for Regina V.K. Williams to Dublin, Ireland, June 28, 1995 to July 7, 1995, for economic development purposes, at no cost to the City. (City Manager's Office)**
(Rules Committee referral 6/21/95)

Documents filed: Memorandum from City Manager Regina V.K. Williams, dated June 23, 1995, requesting approval for said travel.

6f(24) (Cont'd.)

Discussion/Action: The travel request for City Manager Williams to Dublin, Ireland, was approved. Vote: 11-0-0-0.

**6f(25) Adoption of resolution setting fees for the Paseo/Plaza Ordinance. (Convention, Cultural and Visitor Services)
(Rules Committee referral 6/21/95)**

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated June 26, 199, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66094, entitled: "A Resolution of the Council of the City of San José Setting the Fees and Charges for Permits Issued for Use of the Paseos and Plazas in Downtown San José", was adopted. Vote: 11-0-0-0.

**6f(26) Revision of the Facility Use and other service agreements for events contracted at the Convention and Cultural Facilities. (Convention, Cultural and Visitor Services)
(Rules Committee referral 6/21/95)**

Documents filed: None.

Discussion/Action: This item was dropped from the Agenda--see Item 6f(21) for Council action taken

6f(27) Adoption of a resolution:

- (a) **Declaring facts constituting an urgent necessity for the preservation of life, health, and property, requiring the lease/purchase of thirty-one (31) cardiac defibrillators without a formal bid, and authorizing the City manager to lease/purchase thirty-one (31) defibrillators on the open market for an amount not to exceed \$310,000, and execute all documents to accomplish the lease/purchase.**
- (b) **Authorizing the City Manager to execute all necessary documents to add the thirty-one (31) cardiac defibrillators to the Master Equipment Lease Agreement with Access Public Funding.**

(General Services/Fire)

(Rules Committee referral 6/21/95)

6f(27) (Cont'd.)

Documents filed: Memorandum from Fire Chief Raymond Brooks and Acting Director of General Services, Ellis Jones, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66095, entitled: "A Resolution of the Council of the City of San José Declaring Facts Constituting an Urgent Necessity for the Preservation of Life, Health, and Property, Requiring the Purchase of Thirty-One (31) Cardiac Defibrillators on the Open Market in an Amount Not to Exceed \$310,000, and to Add the Purchases to the Master Equipment Lease", was adopted. Vote: 11-0-0-0.

6f(28) Report on Guadalupe Gardens Naturalization Project. (City Attorney's Office) (Orders of the Day 4b)

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 23, 1995, reporting on a request from Council Member Pandori regarding encumbering funds saved on low bids for use on the Guadalupe Gardens Naturalization Project in the next year.

Discussion/Action: The report was accepted and no action was required. Vote: 11-0-0-0.

6f(29) Approval of City comments on FAA proposed policy revision for the FAR Part 150 Program. (City Attorney's Office/Airport) (Orders of the Day 4c)

Documents filed: Memorandum from City Attorney Joan R. Gallo and Director of Aviation Ralph G. Tonseth, dated June 23, 1995, recommending approval of City comments on the FAA proposed policy revision.

Discussion/Action: The proposed City comments on the FAA proposed policy revision for the FAR Part 150 Program were approved. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

6e(52) Report on bids and award of contract for the Fire Station Privacy Improvements Phase III Project to the low bidder, Gen-Con, Inc., to include the base bid and Add Alternate No. 1 in the amount of \$240,969 and approval of a contingency in the amount of \$25,000. CEQA: Exempt. (Public Works) [Deferred from 6/20/95 - Item 6e(20)]

6e(52) (Cont'd.)

Documents filed: (1) Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 1 and June 21, 1995, recommending award of said contract to the low bidder, Gen-Con., Inc.

Discussion/Action: This item was removed from the Consent Calendar by City Manager Regina V.K. Williams, who advised that the Administration is changing the Staff recommendation to request approval to reject all bids. Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, Council approved the rejection of all bids and authorized the rebidding of the project. Vote: 11-0-0-0.

**6e(68) Report on bids and award of contract for the Kirk Community Center Reroof Project to the lowest responsive bidder, Roofing Constructors, Inc., doing business as Western Roofing Service, in the amount of \$107,118 and approval of a contingency in the amount of \$21,000. CEQA: Exempt. (Public Works)
[Deferred from 6/20/95 - Item 6e(25)]**

Documents filed: (1) Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated May 25 and June 14, 1995, recommending award of said contract and contingency to the lowest responsive bidder, Roofing Constructors, Inc., doing business as Western Roofing Service, (2) Memorandum from the Director of Affirmative Action/Contract Compliance, Steven Wing, dated June 23, 1995, advising California Roofing Co., Inc., that they were considered non-responsive because MBE/WBE good faith efforts were not received at the time of the bid opening.

Discussion/Action: This item was removed from the Consent Calendar by City Manager Regina V.K. Williams, who advised that the Administration is changing the Staff recommendation to request approval to reject all bids. Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, Council approved the rejection of all bids and authorized the rebidding of the project. Vote: 11-0-0-0.

6e(45) (a) Approval to allow the low bidder, Gen Con, Inc., to withdraw its bid proposal and release its bid bond and report on bids and award of contract for the San Jose International Airport Americans with Disabilities Act Implementation at Six Facilities Project to the lowest responsive bidder, Sanchez Incorporated, to include the base bid and Add Alternate Nos. 1, 2, and 3, in the amount of \$374,000, and approval of a contingency in the amount of \$30,000. CEQA: Exempt. (Public Works)

6e(45) (Cont'd.)

- (b) Report on bids and award of contract for the San Jose International Airport Americans with Disabilities Act Implementation at Terminal C and the Airport Maintenance Office Building Project to the low bidder, Chegwin Construction, to include the base bid and Add Alternate No. 1 in the amount of \$339,700 and approval of a contingency in the amount of \$27,000. CEQA: Exempt. (Public Works)**
CEQA: Exempt. (Public Works)

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending award of said contract for the San Jose International Airport Americans with Disabilities Act (ADA) renovation at Six Facilities Project to the low bidder and approval of a ten percent contingency. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1995, recommending Council allow Gen-Con, Inc., to withdraw its bid proposal and release its bid bond, approve the award of said contract to the lowest responsive bidder, Sanchez Incorporated, and approval of an eight percent contingency. (3) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8 and June 26, 1995, recommending award of said contract for the ADA renovation at Terminal C to the low bidder, Chegwin Construction. (2) Letter from Patel Construction Co., dated June 27, 1995, protesting the award of said contract to Chegwin Construction.

Discussion/Action: This item was removed from the Consent Calendar and heard separately. Mr. Mahesh Patel, Patel Construction Co., protested the proposed award of contract for Terminal C to Chegwin, stating his bid was lower and more responsive. Mr. S. K. Sharma, Rushford Construction, addressed Council in opposition to the proposed award to Chegwin. Responding to speaker comments, Director of Contract Compliance, Steven T. Wing advised that Patel Construction did not submit adequate good faith documentation by the bid opening date and pointed out that requirements are quite specific and the City holds contractors stringently to those requirements. Concerning Patel's challenge to the figures used in MBE/WBE documentation in the bid by Chegwin Construction, Director Wing stated that when Contract Compliance reviews bids with Public Works staff, bid figures are taken at face value and, if the bid is within the range of the engineer's estimate, as was Chegwin's, the bid would generally be accepted. However, he stated that when these issues were raised by Patel, Staff conducted an investigation with Chegwin and their painter and determined that irregularities did exist in their bid amounts and the Office of Contract Compliance was changing its recommendation to reject all bids on the Terminal C ADA renovation project. Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, Council approved withdrawal of bid by Gen Con, Inc., and release of the bid bond, and approved the award of contract for the San Jose

6e(45) (Cont'd.)

International Airport ADA Implementation at Six Facilities Project to the lowest responsive bidder, Sanchez Incorporated, and approved said contingency; and approved the Staff recommendation as amended for the rejection of all bids on ADA Implementation at Terminal C and authorized rebidding of the project. Vote: 11-0-0-0.

**9gg Approval of the Downtown San José Transit Alternatives Study.
[Transportation, Development and Environment Committee referral 6/8/95 - Item 7e(6)] [Deferred from 6/20/95 - Item 7e(6)]**

Documents filed: See Item 7e(6) in Council Minutes of June 20, 1995, for documents filed.

Discussion/Action: Council Member Pandori stated that fundamental purposes for the study were to comprehensively review how existing light rail lines would interact with those planned for the downtown, noting that specific recommendations have been made regarding the alignment of the Vasona Corridor; and to review interconnecting uses within the downtown. In addition to recent projects like the Arena and Children's Museum and projects already planned, he advised there will be future development on the east side near San José State University and the Task Force reviewed a variety of recommendations to interconnect those uses. He thanked Staff, Consultant Keith Meyer, Task Force Members, and Council Member Powers for their work on the study. Council Member Powers thanked those involved in the project, stated that good ideas had come forward, particularly concerning the moving of light rail systems through or around downtown and how to encourage people to move downtown. Council Member Fernandes thanked Council Members Pandori and Powers and stated that one good idea among many presented was the idea of a shuttle around the downtown, which would benefit all parts of the downtown. Council Member Pandori recognized Herb Briggan, San Jose Arena Management Corporation; Josi Callan, San José Museum of Art; Gloria Chun Hu, The Tech Museum of Innovation; Bill Clayton, a former Parking Commission member; Gary Ehlert, Sheet Metal and Air Conditioning Contractors National Association, (SMACNA); Dave Fadness; Alan Freeman, San Jose State University; Michael Keenly, a downtown resident; Cheryl Blumenthol, Children's Discovery Museum; and Olga Enciso Smith, San Jose Downtown Association, for their participation. Upon motion by Council Member Powers, seconded by Vice Mayor Johnson, and unanimously carried, the Downtown San José Transit Alternatives Study was approved. Vote: 11-0-0-0.

**5b Presentation of a commendation to members of the Downtown Transit Task Force. (Pandori/Powers)
(Rules Committee referral 6/21/95)**

Documents filed: None.

Discussion/Action: Council Member Pandori presented a commendation to Olga Enciso Smith, a representative of the San Jose Downtown Association. Commendations will be sent to San Jose Downtown Transit Task Force members Herb Briggan, Josi Callan, Bill Clayton, Gary Ehlert, Dave Fadness, Alan Freeman, Michael Keenly, and Cheryl Blumenthol, who were unable to attend the ceremony.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - Meeting of June 14, 1995

Documents filed: Rules Committee report of June 14, 1995.

(1) Review of June 27 Council Agenda

The Committee approved the June 27, 1995 Council Agenda with one addition and one change.

(2) Add New Items to June 20 Amended Council Agenda

The Committee recommended fourteen additions to the June 20, 1995 amended Council Agenda.

(3) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated June 8, 1995, listing the items transmitted to the Administration and those items filed for the Public Record. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated June 14, 1995, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record.

(4) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee

There were none.

7b Report of the Rules Committee - Meeting of June 14, 1995 (Cont'd.)

- (5) City Council and Rules Committee meeting schedules

There were none.

- (6) Oral communications

None were presented.

- (7) Adjournment

The meeting was adjourned at 2:40 p.m.

7b Report of the Rules Committee - Meeting of June 21, 1995

Documents filed: Rules Committee report of June 21, 1995.

- (1) Review of Draft Council Agenda

Dropped due to the July recess.

- (2) Add New Items to June 27 Amended Council Agenda

The Committee recommended twenty-nine additions and one change to the June 27, 1995, Council agenda.

- (3) The Public Record

None was filed.

- (4) Approve Legislative Report 95-06. Attachment: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated June 21, 1995, requesting that Council approve the recommended City positions listed below.

SB 657 (Maddy) Property Taxation
Recommended City Position: *No Action*

Discussion/Action: See Item 9hh for Council action taken.

SB 1066 (Campbell) Development Fees: Schools
Recommended City Position: *Oppose*

7b Report of the Rules Committee - Meeting of June 21, 1995 (Cont'd.)

- (4) Approve Legislative Report 95-06 (Cont'd.)

SBXX 13 (Kopp)

Local Agencies: Financial Affairs

Recommended City Position:

Oppose

The Committee directed the City Clerk to cross reference SB 657 under General Government for discussion by Council at the June 27th Council meeting and approved the Legislative Report and the recommended City positions listed above.

- (5) Review of United States House of Representatives and United States Senate Budget Resolutions. Attachment: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated June 21, 1995, requesting that Council approve the recommended departmental positions on proposed House and Senate Budget resolutions.

The Committee recommended approval of the departmental positions on the proposed House and Senate Budget Resolutions.

- (6) Civil Service Review Task Force Status Report. Attachment: Memorandum from Nona Tobin, Director of Human Resources, dated June 14, 1995, recommending the seating of the Civil Service Review Task Force and consultant be deferred until the New Realities Task Force is further along in its work in order to avoid any duplication.

The Committee recommended deferring the final seating of the Civil Service Review Task Force and hiring a consultant until the New Realities Task Force is further along in its work in order to avoid any duplication.

- (7) Request to use Council General funds to attend the League of California Cities' Environmental Quality Policy Committee Meeting in Los Angeles, June 30, 1995. Attachments: (1) Memorandum from Vice Mayor Trixie Johnson, dated June 12, 1995, requesting approval for use of Council General Funds to attend the League of California Cities' Environmental Quality Policy Committee Meeting in Los Angeles, June 30, 1995; (2) Memorandum from Patricia L. O'Hearn, City Clerk, dated June 7, 1995, summarizing the amount remaining in the Council General Travel Budget.

7b Report of the Rules Committee - Meeting of June 21, 1995 (Cont'd.)

- (7) Request to use Council General funds to attend the League of California Cities' Environmental Quality Policy Committee Meeting in Los Angeles, June 30, 1995. (Cont'd.)

The Committee recommended approval for Vice Mayor Johnson to use Council General funds to attend the League of California Cities' Environmental Quality Policy Committee Meeting in Los Angeles, June 30, 1995.

- (8) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee

There were none.

- (9) City Council and Rules Committee meeting schedules

There were none.

- (10) Oral communications

None were presented.

- (11) Adjournment

The meeting was adjourned at 3:00 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers, and unanimously carried, the Rules Committee reports and actions of June 14 and 21, 1995, were accepted, with Council Action on SB 657 (Item 7b(4) of the June 21, 1995 meeting) taken under Item 9hh. Vote: 11-0-0-0.

7c Report of the Housing and Community Services Committee - June 5, 1995

Documents filed: See Housing and Community Services Committee report filed in City Council minutes of June 20, 1995.

- (2) Approval of Arts Commission Recommendations for Arts Grants

See the Synopsis of June 20, 1995, for Committee action taken.

Discussion/Action: See Item 9v for Council action taken.

**7c Report of the Housing and Community Services Committee - June 5, 1995
(Cont'd.)**

- (3) Report on Multicultural Arts Incubation Program and Successor Programs to Vision 2000

See Synopsis of June 20, 1995, for Committee action taken.

Discussion/Action: See Item 9w for Council action taken.

- (4) Approval of Festival, Parade and Celebrations Grants
[Deferred from 6/20/95 - Items 7c(2)(3)(4)]

See Synopsis of June 20, 1995, for Committee action taken.

Discussion/Action: See Item 9x for Council action taken.

Discussion/Action: See Items 9v, 9w and 9x for Council action taken.

7d Report of the Finance Committee- June 14, 1995

Documents filed: Finance Committee report of June 14, 1995.

- (1) Oral petitions

Albert Drost requested an audit of the Redevelopment Agency Funds. William Garbett requested an independent audit of the Recycle Plus Integrated Waste Management Fund.

- (2) Monthly Investment Report for April 1995. Attachment: April 1995 Investment Report.

The Committee accepted the report.

- (3) Monthly Financial Report for April 1995. Attachment: April 1995 Financial Report.

The Committee accepted the report.

7d Report of the Finance Committee- June 14, 1995 (Cont'd.)

- (4) Proposed Booking Fee Recovery Program. Attachment: Memorandum from Assistant to the City Manager, Cynthia Bojorquez-Serda, dated June 8, 1995, recommending that the Finance Committee (a) Approve an 18 month booking fee reimbursement pilot program as described in the report; (b) Direct the Administration to submit to Council an adjustment to the FY 1995-96 Adopted Operating Budget to support the cost of 1.0 FTE Senior Analyst for the duration of the pilot project and the purchase of associated equipment; and (c) Direct the City Attorney to opine on the scope of collection efforts the Administration may include in its pilot program.

The Committee recommended Council approve the Staff recommendation dated June 8, 1995.

- (5) Auditor's Workplan for Fiscal Year 1995-96. Attachment: Audit Workplan for FY 1995-96 submitted by City Auditor Gerald Silva.

The Committee recommended that Council approve the following audit requests for the Auditor's FY 1995-96 Workplan: (a) Continue with the Vehicle Maintenance, San Jose Arena Management Corporation, Retirement Programs, Housing Rehabilitation Program and Public Works Engineering and Inspection Costs Audits that are in progress; (b) Add audits of Environmental Services Department, Santa Clara County Cities Association, County Allocation Process for the City's Traffic Citations Revenues and County Allocation Process for the City's Real Estate Tax Revenues, and if there is time, Utility Taxes. Mr. Silva will come back to the next Finance Committee meeting with additional information on the timeline of these audit recommendations.

- (6) Report on Police Pre-Processing Center. Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated June 7, 1995, recommending approval of the plan therein for relocation of Police functions displaced by creation of the Police Pre-Processing Center.

The Committee recommended that Council approve the plan presented in the report on the relocation of the Police functions displaced by the creation of the Police Pre-Processing Center.

- (7) Report on Central Service Yard Master Plan. Attachment: (1) Memorandum from Assistant City Manager, Debra J. Figone, dated June 9, 1995, recommending approval of the Master Plan for the Central Service Yard project,

7d Report of the Finance Committee- June 14, 1995 (Cont'd.)

(7) Report on Central Service Yard Master Plan. (Cont'd.)

including the Phase I construction program. (2) Final Report of the Service Yard Study, dated September 29, 1994, prepared by Group 4/Architecture, Research and Planning, Inc., David M. Griffith & Associates.

The Committee recommended Council approve the Master Plan for the Central Service Yard project, including the Phase I construction project.

See Item 9i for Council action taken.

(8) Police Communications Staffing and Scheduling Audit.

The Committee deferred this item to the June 28, 1995, Committee meeting.

(9) Committee schedule

No discussion

(10) Adjournment

The meeting was adjourned at 11:50 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Powers, and unanimously carried, the Finance Committee report and actions of June 14, 1995, were accepted, with Council action on Item 7d(7) taken under Item 9i. Vote: 11-0-0-0.

7e Report of the Transportation, Development, and Environment Committee - June 8, 1995

Documents filed: See City Council minutes of June 20, 1995, for report of the June 8, 1995, meeting of the Transportation, Development, and Environment Committee.

**7e Report of the Transportation, Development, and Environment Committee -
June 8, 1995 (Cont'd.)**

- (6) Report and Recommendations on the Approval of the Downtown San José
Transit Alternatives Study
[Deferred from 6/20/95 - Item 7e(6)]

See Synopsis of June 20, 1995 for Committee action taken.

Discussion/Action: See Item 9gg for Council action taken on this item.

GENERAL GOVERNMENT

- 9a Approval to reject all bids and authorization for the Director of Public Works to
readvertise for the Zanker Road Biofilter Project. CEQA: Exempt. (Public
Works)
(Deferred from 6/13/95 - Item 9j)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 25 recommending award of contract to the low bidder. (2) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 15, 1995, recommending rejection of all bids and authorization to rebid the project.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the rejection of all bids and authorization for the Director of Public Works to readvertise for the Zanker Road Biofilter Project was approved. Vote: 11-0-0-0.

- 9b Adoption of a resolution urging the Federal Government to continue its current
operation of Moffett Field and the NASA Ames Research Center, but in the event
of closure, that Moffett Field be retained as a civil airport for the long-term
benefit of Santa Clara County. (Airport)**

Documents filed: (1) Memorandum from Airport Director Ralph G. Tonseth, dated June 9, 1995, recommending the adopting of said resolution. (2) Letter from the City of Sunnyvale, dated June 26, 1995, advising that on June 22, 1995 the Base Closure Commission voted to retain the 129th Air National Guard at Moffett Field.

9b (Cont'd.)

Discussion/Action: Mayor Pat Figueroa, City of Mountain View, addressed the Council and advised that the use of Moffett Field for civil aviation or air cargo was not supported in the City of Mountain View, and suggested that Council delay action due to the decision of the Base Closure Commission to recommend retaining the 129th Air National Guard at Moffett Field and the decision of Lockheed Martin to remain in Sunnyvale. Mayor Hammer thanked Mayor Figueroa for her comments and stated that if things change, as appears possible, she would look forward to working with representatives of the Cities of Mountain View and Sunnyvale on this matter. Vice Mayor Johnson commented that she will be consistent with past votes on this issue and will oppose the resolution, stating that while she supports all of the statements in the proposed resolution about Moffett Field and its importance to the area, she did not think that for San José to move ahead with civil aviation and air cargo alone is an acceptable approach. Mayor Hammer stated that were the present usages of Moffett Field to change, the City of San José would not move ahead unilaterally but would work with the Cities of Mountain View and Sunnyvale, and the County of Santa Clara in a cooperative way to research other uses for that facility. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 66096, entitled: "A Resolution of the Council of the City of San José Urging the Federal Government to Continue its Current Operation of Moffett Field and the NASA Ames Research Center, But in the Event of Closure, That Moffett Field be Retained as a Civil Airport for the Long-Term Benefit of Santa Clara", was adopted. Vote: 10-1-0-0. Noes. Johnson.

9d Adoption of appropriation ordinance and revenue resolution amendments in the Home Investment Partnership Program (HOME) Fund to increase the Home Loans and Grant Appropriation by \$1.5 million to provide funding for the Land Acquisition Loan for the Blossom Hill Senior Apartments. (City Manager's Office/Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, and Budget Director Larry Lisenbee, dated June 8, 1995, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Ordinance No. 24947, entitled: "An Ordinance of the City of San José Amending Ordinance No. 24658 Which Appropriates Moneys in the Home Investment Partnership Program (HOME) Fund to Increase the Home Loans and Grants Appropriation in the Amount of \$1,500,000 to Provide Funding for the Land Acquisition Loan for the Blossom Hill Senior Apartments; and

9d (Cont'd.)

Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 66097, entitled: “A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in the Home Investment Partnership Program (HOME) Fund”, were adopted. Vote: 11-0-0-0.

9e Approval of the Kelley Park, Happy Hollow Park and Zoo, and the San José Historical Museum Master Plans. CEQA: Resolution to be adopted. (Convention, Cultural and Visitor Services)

Documents filed: (1) Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated June 9, 1995, recommending approval of Master Plans for Kelley Park, Happy Hollow Park and Zoo, and the San José Historical Museum. (2) Memorandum from Director of Planning, Gary J. Schoennauer, dated June 23, 1995, recommending adoption of a resolution making findings for the Kelley Park Master Plan EIR and adopting a statement of overriding considerations.

Discussion/Action: Regarding the action before the Council, City Attorney Gallo stated that the appropriate sequence for the action before the Council would be to approve the EIR, after which the Master Plan could then be approved, and advised that in order to approve the EIR, Council needs to make certain findings concerning cumulative impacts of the project. Gerry De Young, San José Historical Museum Association, addressed the Council to publicly acknowledge Association Board Members Steven Cox, Marvin Bamburg, Craig Mineweiser, Mignon Gibson and Kathleen Muller, for their year-long participation on a pro bono basis on the Museum Master Plan, and thanked City Staff for their assistance. Mayor Hammer thanked Gerry De Young for his leadership and labor in this endeavor. Council Member Pandori expressed appreciation for the work that went into the Master Plans and stated that continual review of implementation of the plans was necessary since the plans are very ambitious and many elements are unfunded, and suggested that follow-up reports be made to Housing and Community Services on implementation of the Master Plans. Upon motion by Council Member Powers, and unanimously approved, the Council made findings that the EIR identifies project and cumulative air quality impacts and cumulative loss of agriculture lands as significant and unavoidable; that the Master Plan will provide regional and neighborhood park recreational benefits associated with the expanded park facility, including picnic areas and open space in the area of the City that is currently park deficient as defined in the General Plan, and that the benefit of the park facilities outweighs the significant impacts of the project, approved Master Plans for Kelley Park, Happy Hollow Park and Zoo, and the San José Historical Museum and directed the Administration to

9e (Cont'd.)

provide quarterly reports to the Housing & Community Services Committee on implementation of the Master Plans; and Resolution No. 66098, entitled: "Resolution of the Council of the City of San José Making Certain Findings Required by the California Environmental Quality Act in Connection with a Project Consisting of the Kelley Park Master Plan for Property Located at the Southwestern Corner of Senter and Story Roads to Modify, Upgrade and Expand Existing Park Elements and to Develop the Vacant Eastern Portion of the Park, Including a Neighborhood Park, Natural Science Exhibit Building, Picnic Areas and Parking, on Approximately 172 Acres, for Which an Environmental Impact Report Has Been Prepared", was adopted. Vote: 11-0-0-0.

- 9s
- (1) **Accept in concept the Northside Project Master Plan Report for the use of the project site, including expansion of the community center and construction of a senior citizen low-income housing project.**
 - (2) **Direct Administration to conduct the financial and environmental analyses for use of the Empire Corporation Yard as the site for the senior housing project, and return to Council within 6 months before vacation of the site, now planned not later than September 1997, with recommendations on the feasibility of the site for the housing project, including the value and disposition of the property.**

(Neighborhood Services/Housing)

Documents filed: (1) Memorandum from Director of Neighborhood Services, George Penn, and Director of Housing, Alex Sanchez, dated June 20, 1995, recommending conceptual approval of the Northside Project Master Plan and direction to the Administration to conduct financial and environmental analyses for use of the Empire Corporation Yard as the site for the senior housing project and return to Council within six months before vacation of the site with said feasibility recommendations. (2) Letter from the San José Parks and Recreation Commission, dated June 14, 1995, recommending unanimously that the City Council approve in concept the Northside Community Center and Senior Housing Master Plan which the Commission has endorsed. (3) Report entitled, *City of San José, Northside Community Center & Senior Housing Master Plan Report*, dated May 25, 1995, prepared by The Steinberg Group.

Discussion/Action: Terry J. Eberhardt, Project Manager, Office of Aging, Department of Parks and Neighborhood Services, presented the Staff report. Addressing Council in support of the proposal, Ben Menor introduced Dr. Antonio R. Abiog, President, Filipino-American Senior Opportunities Development Council, Inc. (Fil-Am SODC). Mohinder Mann introduced Mr. Sabharwal, representing Indo-American seniors;

Khristine Alfonso and Jennie Naldoza, representing youth. Mr. Mann thanked Council Member Pandori, Terry Eberhardt, Alex Sanchez and all those involved in bringing this project forward. Council Member Pandori thanked Ben Menor, the Staff, members from the Northside Community Center, Mr. Abiog and members of the Task Force. He stated the proposal is for an ambitious project, and while he thought it could be accomplished, it would require a private partner. He advised that City funds are limited in terms of building new community centers, but the City has a good piece of property adjacent to this site, the Empire Corporation Yard and the plan takes that into account by proposing a private housing development which will help finance and plan in a comprehensive way additional Community Center space. He requested Council approve as additional direction to Staff, to attempt to accelerate the phase out of the Empire Corporation Yard to keep it on schedule, noting the target date of September 1997 in the Staff report, which he understood to be the legal required date, and suggested targeting an earlier date for the phase out, and seeing if a private partner can be lined up to assist in implementation of the project, and moved approval of the two Staff recommendations, with a report back from Staff on how to accelerate the Empire Corporation Yard move. Council Member Fiscalini seconded the motion. Albert Drost addressed Council regarding the need for senior projects to assist low income seniors. Upon a call for the question, the motion was unanimously approved, the Council accepted in concept the Northside Project Master Plan Report for the use of the project site, including expansion of the community center and construction of a senior citizen low-income housing project; directed the Administration to conduct the financial and environmental analyses for use of the Empire Corporation Yard as the site for the senior housing project, and return to Council within 6 months before vacation of the site, now planned for not later than September 1997, with recommendations on the feasibility of the site for the housing project, including the value and disposition of the property; and additionally directed the Administration to attempt to accelerate the phase out of the Empire Corporation Yard and report back to Council on the move, as requested by Council Member Pandori Vote: 11-0-0-0.

- 9ff (1) **Adoption of a resolution approving:**
- (a) **A fund reservation and business terms for an acquisition loan of \$650,000 to Barry Swenson Builder for the unbuilt portion of the University Gardens Project at 11th and Martha Streets.**
 - (b) **The payment of \$32,304 toward property taxes due and owing on the Project.**
 - (c) **Declaring as uncollectable the balance of the outstanding loan to Martha Associates in the approximate amount of \$2,100,000, including accrued interest.**

(Continued next page)

9ff (Cont'd.)

(2) Authorizing the Director of Housing to negotiate and execute documents evidencing such loan to Barry Swenson Builder on behalf of the City.

(Housing)

(Rules Committee referral 6/21/95)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 21, recommending adoption of said resolution.

Discussion/Action: Mayor Hammer called for public testimony and John McCluggage, President, University Gardens Homeowners Association, spoke in support of the proposal; William J. Garbett spoke in opposition. Council Member Pandori requested the Director of Housing explain for the public record the full circumstances and the consequences of the Council's not proceeding with the action today. Director Sanchez reported the original idea for the project in 1989-90 was to produce 139 high quality first-time home buyer units at the edge of downtown and to provide funding that would ultimately be returned to the City but, because of the economic slump in the County and particularly in this part of the City, it is necessary for the City to provide the funding and keep it in this particular project. He advised that after the \$2.1 million and the \$650,000 are provided, there will be 139 units with 34 being affordable to first-time home buyers. He advised that, while there were a number of options, for the City to foreclose on the project would have required the City to pay off the debt, estimated at \$4.9 million, which was not thought to be a prudent course of action; therefore, the Administration spent several months working with Comerica Bank, which decided to significantly discount their loan to \$650,000. Council Member Pandori stated that situation underscores the cost to the City of not acting, which would leave a lender with no option but to foreclose and leave an unfinished project in a neighborhood, and send a message to private developers that downtown is not a good place to do business. He stated the current situation came about because when the project was completed the housing market had experienced a substantial downturn, the project was in a neighborhood where there had been no housing construction in decades, and consequently, sales lagged. Therefore, he stated the staff recommendations represents the most prudent course for the City. Council Member Pandori moved approval of the Staff recommendations. Council Member Fernandes seconded the motion. Responding to questions by Council Member Diaz, Director Sanchez explained that the total initial investment was \$2.8 million, that the City rolled \$1 million into second mortgage financing for the property owners of about 24 units and had expected to be repaid \$1.8 million which cannot be repaid based on the economics of the project; that in addition Staff is requesting Council approve \$650,000 to purchase the financial rights to the property from Comerica Bank, which adds up to \$3.4 million for 139 units, with 34 affordable to first-time home buyers. Council Member Diaz inquired as to the sales

9ff (Cont'd.)

range proposed by the developer. Marianne Bacaigalupi, Senior Vice President, Barry Swenson Builder, stated that following extensive studies on sales prices and performs, it appears the units will sell for approximately \$145,000 and \$155,000 for the larger units and approximately \$100,000 to \$110,000 for the smaller units. Director Sanchez stated that information in the Staff report indicating the City is seeking a recourse loan has been modified to a non-recourse loan. Albert Drost addressed the Council concerning use of the bid process. In response to questions from Mr. Drost, Director Sanchez stated the units will be owned by buyers, Barry Swenson will be the developer, and the City will be the public purpose lender. Responding to questions from Council Member Diquisto about consequences of not completing the project, Director Sanchez explained that Phase 1 of the project is fully occupied, but Phase 2 has not begun. Council Member Pandori elaborated that the note the City has on the property will probably go unpaid with a loss to the City and reiterated that the first lender is writing off a larger amount of money than the City. Director Sanchez stated the City will not recoup its investment, but the private lender, Comerica Bank, is writing off \$4.3 million, and clearly the partnership, Martha Associates, will not recover its investment in excess of \$1.5 million. On a call for the question, the motion was unanimously carried, Resolution No. 66099, entitled: "A Resolution of the Council of the City of San José (1) Approving (A) A Fund Reservation and Business Terms for an Acquisition Loan of \$650,000 to Barry Swenson Builder for the Unbuilt Portion of the University Gardens Project at 11th and Martha Streets; (B) The Payment of \$32,304 Toward Property Taxes Due and Owing on the Project; and (C) Declaring as Uncollectable the Balance of the Outstanding Loan to Martha Associates in the Approximate Amount of \$2.1 Million, Including Accrued Interest, and (2) Authorizing the Director of Housing to Negotiate and Execute Documents Evidencing Such Loan on Behalf of the City", was adopted. Vote: 11-0-0-0.

9b Adoption of a resolution urging the Federal Government to continue its current operation of Moffett Field and the NASA Ames Research Center, but in the event of closure, that Moffett Field be retained as a civil airport for the long-term benefit of Santa Clara County. (Airport)

Discussion/Action: This item was revisited to allow Mayor Barbara Waldman of the City of Sunnyvale to address the Council on the issue of Moffett Field. Mayor Waldman apprised the Council of late developments which enhance the likelihood that Moffett Field will remain a Federal airfield and informed the Council that the City of Sunnyvale's position is that it is premature for actions to be taken by other cities and spoke in support of regional cooperation and of her intent to include the City of San José in all discussions. Mayor Hammer thanked Mayor Waldman for her comments

9b (Cont'd.)

and stated she was pleased at recent developments which could lead to retention of the U.S. Air Force at Moffett Field. The action taken by the City Council earlier in the meeting was not reconsidered and therefore, the action stands as taken.

9dd Presentation of audit report of Karl Dolk, CPA, on the Quality Control Review of the Office of the City Auditor for the 24 months ended April 30, 1995. (Mayor) (Rules Committee referral 6/21/95)

Documents filed: Report entitled: *Office of the City Auditor, City of San José, Quality Control Review for the 24 Months Ended April 30, 1995*, dated June 14, 1995, prepared by Karl W. Dolk, Certified Public Accountant (CPA).

Discussion/Action: Karl W. Dolk, CPA, commented on his review of the Quality Control of the City Auditor's Office, which was prepared at the request of the Mayor and City Council. He stated the reasons for conducting a Quality Control review of the City Auditor's Office are because the Auditor has to go beyond what is normal to assure their findings are correct and in order to do that, a Quality Control System is established and a review of those systems is to assure as much as possible that their reports are accurate. He advised that the Auditor's Office has an excellent control system which decreases the chance for inaccuracies, and regarding the issue of timeliness, reported that this area was the only area where improvements were recommended. In summary, he stated that quality controls in the City Auditor's Office are excellent and among the best he had seen, and are not only in place but are followed with excellent results. Mayor Hammer thanked Mr. Dolk for his work on behalf of the Council. She advised regarding the timeliness issue, that delays are often out of the Auditor's control. Mr. Dolk agreed and also pointed out that Staffing cuts were a contributing cause, and emphasized that the real issue of timeliness is whether the report retains its usefulness, which is predominantly the case in San José. He explained that rigorous standards were used and he thought this was not a major issue. City Auditor Silva thanked Mr. Dolk for his work with the Auditor's Office and for his suggestions, which his Office will try to incorporate. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the report was accepted. Vote: 11-0-0-0.

9c Interview applicants and make appointment to fill one unexpired term ending February 29, 1996 on the Campaign Finance Review and Ethics Board. (City Clerk)

9c (Cont'd.)

Documents filed: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated June 14, 1995, scheduling interviews for Haresh Panchal, Pamela Hawley, and Karen Parsons for the vacant position on the Campaign Finance Review and Ethics Board. (2) Memorandum from City Attorney Joan R. Gallo, dated June 19, 1995, advising concerning possible conflicts of interests disclosed by the applicants.

Discussion/Action: The City Council conducted interviews of Pamela Hawley and of Haresh Panchal and continued Item 9c to later in the meeting pending the arrival of the third candidate, Karen Parsons.

9f Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, Structural Rehabilitation, Digester Domes," to the low bidder, Artistic Builders, Inc., in the amount of \$809,100. CEQA: Exempt. (Environmental Services)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 8, recommending approval of said award of contract to the low bidder, Pleasanton Engineering Contractors, Inc. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said contract to Pleasanton Engineering Contractors, Inc. (3) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 26, 1995, recommending approval of said bid to the low bidder, Artistic Builders, Inc. (4) Memorandum from City Attorney Joan R. Gallo, dated June 27, 1995, clarifying the Supplemental Memorandum from the Water Pollution Control Plant, Treatment Plant Advisory Committee, concerning award of said contract relative to conditions under which the low bidder may be found "not responsible" and stating that the bid from Artistic Builders, Inc., was complete and Staff investigations determined they were to perform, therefore, the bid must be let to Artistic Builders, Inc., as the lowest responsive bidder.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the award of contract to the low bidder, Artistic Builders, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

9g Adoption of a resolution authorizing the write-off of uncollectible accounts listed in the Bad Debt Write Off Report as provided for in Section 4.24.030 of the San José Municipal Code totaling \$1,355,093.86. (Finance)

Documents filed: None.

9g (Cont'd.)

Discussion/Action: This item was deferred to August 8, 1995.

9h Adoption of a resolution authorizing the Director of Finance to procure a City-wide property insurance policy from Arkwright Mutual Insurance Company for the period July 1, 1995 to July 1, 1996, in an amount not to exceed \$540,000. (Finance)

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 66100, entitled: "A Resolution of the Council of the City of San José Delegating to the Director of Finance the Authority to Procure a Citywide Property Insurance Policy from Arkwright Mutual Insurance Company for the Period of July 1, 1995 to July 1, 1996 in an Amount Not to Exceed \$540,000", was adopted. Vote: 10-0-1-0. Absent: Powers.

9j Adoption of a resolution authorizing the Director of General Services to execute an agreement with ADS Environmental Services, Inc., for a Telemetered Wastewater Flow Monitoring and Rainfall Gauge System, installation, and maintenance services, at a total cost not to exceed \$1,618,901, including tax, and approval of \$81,000 as a contingency for unanticipated work. (General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 13, 1995, recommending adoption of said resolution.

Discussion/Action: William J. Garbett addressed the Council in opposition to this proposal. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 66101, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with ADS Environmental Services, Inc., for the Purchase and Installation of a Telemetered Wastewater Flow Monitor System, at a Total Cost Not to Exceed One Million Six Hundred Ninety-Nine Thousand Nine Hundred One Dollars (\$1,699,901)", was adopted. Vote: 10-0-1-0. Absent: Powers.

- 9k
- (1) **Award of a sole source purchase of 500 handguns for the Police Department to San Diego Police Equipment Company at a total cost of \$287,320.22, including tax and shipping, and authorization for the Director of General Services to execute the purchase order.**
 - (2) **Report on bids and award of purchase of Bianchi magazine pouches and holsters for the Police Department to the low bidder, San Diego Police Equipment Company for \$35,493.17 including tax, and authorization for the Director of General Services to execute the purchase order.**
 - (3) **Authorization for the Director of General Services to exercise the option to purchase 700 additional handguns, magazine pouches, and holsters at the same bid price for one (1) year for a cost not to exceed \$454,558, contingent upon Council approval of the necessary funds.**
- (General Services)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated June 8, 1995, recommending approval of said sole source purchase of 500 handguns to San Diego Police Equipment Company, award of purchase of Bianchi magazine pouches and holsters to the low bidder, San Diego Police Equipment Company, and authorization for the Director of General Services to execute the purchase orders and to exercise the option to make additional purchases as specified.

Discussion/Action: Vice Mayor Johnson stated that the Police Department has a policy for disposal of the guns that are surplus so they are not sold to general public, and according to her understanding, the department arranges for sales to police officers, and asked for clarification, stating she would not want the weapons sold to the public. Assistant Chief of Police Tom Shigemasa reported that this is the second time the Department has gone through this procedure, the first in 1992 when the Department replaced revolvers with the semi-automatic Smith & Wesson 3906 currently used; that no weapons have been sold outside the Department other than to current or retired Police Officers; that the Department retains the weapons in anticipation of incoming recruits or others within the law enforcement community, particularly in the San José Police Department, who would want to buy them, and assured Council that the Department is very concerned about the potential for handguns going from the San José Police Department to the public and being used in the community. Council Member Pandori asked if officers are prohibited from reselling the guns and Chief Shigemasa replied that officers are not prohibited from reselling the guns, stating the Department can only hope officers would be circumspect regarding to whom they sell weapons, since there is nothing that would restrict resale of the weapons under current policy. Council Member Pandori asked if the Department could track the resale of guns and Chief Shigemasa stated he would check on that issue. Upon motion by Vice Mayor Johnson, seconded by Council Member Powers, and unanimously carried, the award of sole source purchase of 500 handguns to San Diego Police Equipment Company; the

9k (Cont'd.)

award of purchase of Bianchi magazine pouches and holsters to the low bidder, San Diego Police Equipment Company; and authorization for the Director of General Services to execute the contracts and to exercise the option to purchase 700 additional handguns, magazine pouches, and holsters at the same bid price for one (1) year for a cost not to exceed \$454,558, contingent upon Council approval of the necessary funds, were approved. Vote: 11-0-0-0.

9l Adoption of a resolution increasing the Director of General Services' authorization for the purchase of IBM compatible microcomputer hardware, software, and peripherals on a City-wide open purchase order with ComputerBiz, Inc., by \$200,000, from \$2,725,000 to \$2,925,000, for the current agreement period of August 31, 1995. (General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 8, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 66102, entitled: "A Resolution of the Council of the City of San José Increasing the Authority of the Director of General Services to Purchase IBM Compatible Microcomputer Hardware, Software, and Peripherals on an Open Purchase Order with ComputerBiz, Inc., in an Amount Not to Exceed Two Million Nine Hundred Twenty-Five Thousand Dollars (\$2,925,000) for the Period September 1, 1994 to August 31, 1995", was adopted. Vote: 11-0-0-0.

9m Approval of award for the asbestos remediation at San Jose International Airport, Terminal C to Marcor of California, Inc., for a total cost of \$339,195 including tax, and authorization for the Director of General Services to execute the service order, and approval of \$60,805 as a contingency for unforeseen additional asbestos remediation services. (General Services)

Documents filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated June 8, 1995, recommending approval of Marcor of California, Inc. (2) Letter of protest of the proposed award of contract from Somera Construction Co., Inc., dated June 26, 1995.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, the award of contract to Marcor of California, Inc., and said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

9n Adoption of a resolution authorizing the City Manager to negotiate and execute office space lease agreements and an extension with:

- (1) 777 Associates for approximately 12,386 square feet located at 777 North First Street, Suite 500 for the Department of Parks, Recreation and Neighborhood Services for a five (5) year term with lease payments in an approximate amount of \$16,720 per month for the first year of the agreement.**
- (2) Donald and Lone Carr, dba Civic Center Tower for approximately 5,500 usable square feet located at 675 North First Street for the Department of Public Works/Transportation Division for a five (5) year term with lease payments in an approximate amount of \$8,525 per month for the first year of the agreement.**
- (3) Donald and Lone Carr, dba Civic Center Tower for approximately 13,400 usable square feet located at 675 North First Street, Suites 200 and 300 for the Department of Public Works/Architectural Engineering Division for a five (5) year term with lease payments in an approximate amount of \$20,450 per month for the first year of the agreement.**
- (4) Macanan Investments for 19,326 square feet at 333 West Santa Clara Street for the Department of Parks, Recreation and Neighborhood Services for five (5) months, from September 1995 to February 1996, with lease payments in an approximate amount of \$37,000 per month.**

(General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated June 20, recommending approval of said resolution.

Discussion/Action: Council Member Pandori expressed concern about moving employees out of downtown when the City is spending millions to attract private sector employees downtown and concerning the proposal to move the Department of Parks, Recreation and Neighborhood Services, he asked if the square foot rate for 4 North Second Street is cheaper than the rate would be if the departments were moved. Acting Director of General Services, Ellis M. Jones, Jr., stated that the square foot rate is higher at 777 North First Street; however, the Department of Parks, Recreation and Neighborhood Services was concerned about access, particularly after hours and on weekends when Boards and Commissions hold late afternoons and evenings meetings and Subcommittees meet in the early morning. He stated their concern centers on access from the garage, which is not integrated with the building in some places and that consideration was given to moving the Office on Aging to The Alameda next to the Council on Aging, which would make 4 North Second more acceptable; however, that would add \$82,000 in rent, so in that comparison, the 777 North First Street location would be cheaper. Council Member Pandori recommended remedying the situation at the downtown location instead of paying more per square foot to move people out of

downtown. Deputy Director Nadine Felix elaborated on the problems, which include repairs to doors and garage signage to improve accessibility between the garage and building, a particular problem for the elderly and those with wheelchairs. Council Member Pandori voiced concern that if the building lacks accessibility for the elderly, the City should remedy that condition regardless of this lease, and requested Staff review and report back on this issue. City Manager Regina V.K. Williams advised that it would be beneficial to have the Department of Parks, Recreation and Neighborhood Services closer to City Hall operations and suggested another operation could be moved into the downtown location, but the Administration prefers to have Parks, Recreation and Neighborhood Services at the Civic Center location. Responding to questions from Council Member Pandori, she explained that functions of parks, recreation, and youth services cross departmental lines and require efficient communication with different departments. Council Member Pandori expressed concern about the message which would be sent by the City removing employees from the downtown and reiterated that if access problems exist, improvements should be made for the public, if not for City employees. Council Member Fiscalini questioned whether the facility is a safe environment if circumstances exist such that the City does not want Staff in the adjoining building, stated corrections should be made, and suggested moving the Parks, Recreation and Neighborhood Services to City Hall and moving another function to the downtown facility after making necessary repairs. Council Member Pandori moved approval of Parts 2-4 and deferral of Part 1 for a report back from Staff. Council Member Fiscalini seconded the motion. Assistant City Manager Debra Figone stated the lease at 333 West Santa Clara Street would have to be extended consistent with the revised proposal coming back to Council and thus may be different than proposed. City Attorney Gallo advised that Council should delegate extension of that lease to the City Manager for whatever terms are appropriate. In reply to Mayor Hammer, Acting Director Jones advised that the City is considered a preferred tenant and the delay will not preclude leasing at the 777 North First Street location, but because of the high rate at 333 West Santa Clara Street, savings would be realized by a quick resolution. On a call for the question, the motion by Council Member Pandori was unanimously carried, the City Manager was authorized to negotiate and execute office space lease agreements as specified in Parts 2 and 3 of the Staff recommendation, extension of the office space lease agreement at 333 West Santa Clara Street as specified in Part 4 for such term as deemed appropriate; the negotiation and execution of the space lease agreement specified in Part 1 was deferred to August 8, 1995; and the Administration was directed to report back on what would be required to correct problems at the 4 North 2nd Street facility; and Resolution No. 66103, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Office Space Leases", was adopted. Vote: 11-0-0-0.

9c Interview applicants and make appointment to fill one unexpired term ending February 29, 1996 on the Campaign Finance Review and Ethics Board. (City Clerk)

Documents filed: See the first consideration of Item 9c earlier in this meeting.

Discussion/Action: This item was revisited and on being advised of the absence of the third candidate, Karen Parsons, due to illness, the interviews were continued by unanimous consent to August 15, 1995. Vote: 11-0-0-0.

**9i Approval of the Central Service Yard Master Plan. CEQA: ND.
[Finance Committee referral 6/14/95 - Item 7d(7)]**

Documents filed: (1) See Item 7d(7) in Finance Committee report of June 14, 1995. (2) Hard copies of transparencies used in the Staff presentation by Assistant City Manager Debra Figone.

Discussion/Action: Assistant City Manager Debra Figone provided an overview of the Central Service Yard, otherwise known as the Beechnut site, which was purchased in 1993 with the primary goal of moving the Main Service Yard from its current location in order to foster the economic expansion of Japantown. She stated that a Service Yard Study had identified the optimal mix of tenants and with a Master Plan for the site approved, even though Phase 1 funding is the only funding available, incremental moves could take place in the future. She stated that Council's original approval of Phase 1 contemplated a minimum use of the yard to include storage for the San José Historical Museum and Christmas in the Park. Gary D. Thompson, Manager of the Architectural Engineering Division of Public Works, reported that the Master Plan began in February of 1994 with the hiring of a consultant team and continued through August of 1994 under direction of a City Task Force, which developed the recommendation for a reuse plan. In addition to the original direction, he stated the Administration and the San José Historical Museum Association reviewed suggestions of reserving Building A--the main building along Phelan Road--for an exhibit museum, the impact of which would be that some of the proposed relocations could not occur, buildings would have to be enlarged and project funding increased; therefore, the Master Plan does not include an exhibit museum in Building A, but does not preclude future development of that concept if additional funds become available. Assistant City Manager Figone advised the recommended buildout would occur in three phases, that Phase 1 would move the Southern-most 93 feet of the Main Yard, Empire Yard, and Las Plumas Warehouse to the Central Yard, provide storage for the San José Historical Museum and Christmas in the Park in the three warehouse complexes on the site and is currently budgeted at \$6.5 million from bond proceeds. She explained that changes from the original concept include

accelerating the move of the Las Plumas Warehouse from Phase 2 to Phase 1 using funds targeted for toxics cleanup at the Main Yard which are no longer needed, the setting aside of funds for demolition of buildings on the Southern 93 feet of the Main Yard when a project is proposed for the site. She explained that Phase 2 would move the balance of the Main Yard, estimated at \$25 million, Phase 3 would move Sewer and Traffic Maintenance Operations, estimated at \$8.5 million, with total costs for all three phases estimated at \$40 million. In summation, she stated the Master Plan as presented represents an optimal buildout of the 22 acres of the Central Service Yard and with the changes identified, maximizes improvements using existing dollars, satisfies the immediate need of relocating functions from the Southern 93 feet of the Main Yard and the Empire Yard, is consistent with the bond requirements, provides badly needed storage for Christmas in the Park and San José Historical Museum collections, and preserves the site's flexibility to accommodate other uses in the future. Gerry De Young, San José Historical Museum Association, addressed Council in support of the proposal and requested that Phase 1 protect the integrity of Building A and requested that Phase 1 include appropriate archive space to protect the City's records. Council Member Fernandes requested that the motion include the preservation of Building A, and stated the Core Committee study of the Historical Museum identified a serious need for attention to the archives, which are in bad condition, and requested Phase 1 funding include not only storage, but appropriate staffing to handle the Archives professionally, including cataloging, documenting and storing in such a way as to be preserved and accessible for research. Assistant City Manager Figone replied that the Administration could review what is required for the appropriate level of storage for the Archives, but stated that Phase 1 funding, since it is from a bond measure, may not be available for that purpose. Council Member Fernandes reiterated the recommendation of the Core Committee which was accepted by Council, and suggested that appropriate measures to improve the condition of the Archives could be included as part of the process of moving the Archives. Assistant City Manager Figone stated the \$6.5 million budgeted does not include moving the actual documents and a review of the budget would be necessary to include that funding. Council Member Fernandes requested the Administration review that issue and report back to Council. Council Member Shirakawa, Jr., requested review of the feasibility of including a Battery/Oil/Paint (BOP) Drop-off Station at the service yard. Council Member Woody moved approval of the Staff recommendation with the direction to Staff as requested by Council Member Fernandes and Council Member Shirakawa, Jr. She stated that the lease revenue bond was written such that the basis was the essential governmental functions to be relocated on the site, but stated that would not preclude the City through the Master Plan and further study from reviewing the sensitive areas that have been addressed by Council. Council Member Pandori stated his preference would be to proceed with demolition of the buildings at the Main Corporation Yard, which was the

9i (Cont'd.)

preference of the merchants in that area and which would facilitate marketing the property, and requested the Administration report back to the Council on this issue in August or September. Vice Mayor Johnson expressed concern about the need for overflow parking for events at the San José Historical Museum, now being accommodated by the Central Yard, and requested that timing of the project be coordinated with parking needs. On a call for the question, the motion by Council Member Woody, was unanimously approved, the Staff recommendation for the Central Service Yard Master Plan project was approved, the Administration was directed to preserve the integrity of Building A, and to report back on issues raised by the Council regarding: (a) the costs associated with appropriate storage and maintenance of City Archives; (b) the feasibility of demolition of the buildings on the Southern 93 feet of the Main--Staff to meet with the Jackson-Taylor Business Association and report back in August or September; and (c) the incorporation of a Battery/Oil/Paint Drop-off Station in the yard. Vote: 11-0-0-0.

9o Adoption of a resolution:

- (1) Approving a \$700,000 fund reservation for a loan for the predevelopment, construction, and permanent financing of the Montgomery Street Inn, a 84-bed emergency and transitional housing facility for homeless men, on a 14,450 square foot parcel located at 352 North Montgomery Street.**
- (2) Approving business terms for the predevelopment, construction, and permanent loan.**
- (3) Authorizing the Director of Housing to negotiate and execute all necessary documents on behalf of the City.**

(Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 66104, entitled: "A Resolution of the Council of the City of San José (i) Approving a \$700,000 Fund Reservation for a Loan to InnVision for the Predevelopment, Construction and Permanent Financing of the Montgomery Street Inn, a 84-Bed Emergency and Transitional Housing Facility for Homeless Men, on a 14,450 Sq. Ft. Parcel Located at 352 N. Montgomery Street, (ii) Approving Business Terms for the Predevelopment, Construction and Permanent Loan, and (iii) Authorizing the Director of Housing to Negotiate and Execute all Necessary Documents on Behalf of the City", was adopted. Vote: 11-0-0-0.

9p Approval of the amended Citizen Participation Plan required as part of the Consolidated Planning process. (Housing/Neighborhood Services)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, and from Director of Neighborhood Services, George Penn, dated June 8, 1995, recommending approval of the amended Citizen Participation Plan.

Discussion/Action: Upon motion by Council Member Shirakawa, Jr., seconded by Vice Mayor Johnson, and unanimously carried, the amended Citizen Participation Plan required as part of the Consolidated Planning process, was approved and its execution authorized. Vote: 11-0-0-0.

9q Adoption of a resolution:

- (1) Approving a fund reservation of up to \$1,900,000 to the Housing Authority of the County of Santa Clara (HACSC) or its assignee for acquisition and predevelopment costs related to the development of a 72-unit family rental housing project for very low- and low-income households on a 2.85 acre site located on Huff Avenue, north of Magliocco Drive.**
- (2) Approving business terms for the acquisition and predevelopment loan.**
- (3) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing such loan on behalf of the City.**
- (4) Finding that the use of 20% Housing Funds for the subject project is of benefit to the Redevelopment Project Areas in San José.**

(Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 19, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 66105, entitled: "A Resolution of the Council of the City of San José(i) Approving up to \$1,900,000.00 for an Acquisition and Predevelopment Loan to the Housing Authority of the County of Santa Clara, or its Assignee, for the Development of a 72-Unit Family Rental Housing Project Affordable to Very Low-and Low Income Persons and Families, (ii) Approving Business Terms for an Acquisition and Predevelopment Loan of Up to \$1,900,000.00 to the Housing Authority, or its Assignee, (iii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Loan on Behalf of the City, and (iv) Finding That the Use of 20% Housing Funds for the Subject Project is a Benefit to the Redevelopment Project Areas in San Jose", was adopted. Vote: 11-0-0-0.

9r

Adoption of a resolution:

- (1) Approving a modification to the Rehabilitation Grant to Mid-Peninsula Housing Coalition decreasing the number of affordable units from 286 to 166 for the Timberwood Apartments located at 3903 Seven Trees Boulevard.**
- (2) Approving a maximum 5-year affordability restriction period for 109 units being rehabilitated with HOME funds and not covered under the Very Low-Income (VLI) restrictions associated with bonds issued for the purchase of the Timberwood Apartments.**
- (3) Maintaining the term of the affordability restriction on 57 units to the 25 years remaining under the original restriction agreement.**
- (4) Authorizing the Director of Housing to enter into agreements and execute all necessary documents evidencing such grant modification on behalf of the City.**

(Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 8, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Shirakawa, Jr., seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 66106, entitled: "A Resolution of the Council of the City of San José (1) Approving a Modification to the Home Grant and to Mid Peninsula Housing Coalition Decreasing the Number of Affordable Units in the Timberwood Housing Project, (2) Approving a Five Year Restriction for 109 Housing Units in the Timberwood Housing Project; (3) Maintaining the Original Term of Restrictions for the 57 Housing Units in the Timberwood Project and (4) Authorizing the Director of Housing to Negotiate and Enter into All Necessary Documents Evidencing the Grant Modifications on Behalf of the City", was adopted. Vote: 11-0-0-0.

Mayor Hammer left the Chambers and Vice Mayor Johnson assumed the Chair.

9t

Approval of the following actions with regard to the Midtown Specific Plan Benefit Assessment District No. 95-217SJ (San Carlos-Race):

- (1) Approval of an agreement with Safeway Stores, Inc., preliminary to the formation of the District.**
- (2) Adoption of a resolution directing the Director of Public Works to prepare the Engineer's Report for the District.**
- (3) Adoption of a resolution of intention to form the District, setting public hearings on August 8, 1995 and August 22, 1995 at 1:30 p.m., and direction to the City Clerk to provide notice thereof.**

CEQA: ND. (Public Works)

9t (Cont'd.)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending approval of the proposed actions retaining to the Midtown Specific Plan Benefit Assessment District No. 95-217SJ (San Carlos-Race)

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, Jr., and unanimously carried, Item (1) recommending approval of the proposed agreement with Safeway Stores, Inc., was approved; Item (3) recommending adoption of a resolution of intention to form the District, was dropped from the Agenda; and Item (2) authorizing the Director of Public Works to prepare the Engineer's Report, was approved, and Resolution No. 66107, entitled: "A Resolution of the Council of the City of San José Directing the Director of Public Works to Prepare the Engineer's Report Preliminarily to the Establishment of an Area of Benefit for Benefit Assessment District No. 95-217SJ", was adopted. Vote: 10-0-1-0. Absent: Hammer.

9u Report on bids and award of contract for the construction of the 1994-95 Contractual Street Maintenance Project to the low bidder, Pavex Construction Company, in the amount of \$1,615,624.70. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, recommending approval of award of contract to the low bidder, Pavex Construction Company.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of contract to the low bidder, Pavex Construction Company, was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

9v Adoption of a resolution authorizing the Director of Convention, Cultural and Visitor Services to negotiate and execute the Fiscal Year 1995-96 Arts Grants agreement with fifty-three (53) organizations, in a total amount of \$2,189,410. [Housing and Community Services Committee referral 6/5/95 - Item 7c(2)] (Deferred from 6/20/95 - Item 9g)

Documents filed: See Item 7c(2) in City Council minutes of June 20, 1995.

9v (Cont'd.)

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 66108, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Convention, Cultural and Visitor Services to Execute the 1995-96 Arts Grant Agreements", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 9w
- (1) **Adoption of a resolution authorizing the Director of Convention, Cultural and Visitor Services to execute Multicultural Arts Incubation Program grant agreements with:**
 - (a) **San Jose Stage Company for a two (2) season ten (10) week Downtown Arts Series of multicultural performing arts in an amount not to exceed \$55,000.**
 - (b) **San Jose Institute of Contemporary Art for co-curating and providing office space for two (2) exhibits in the Multicultural Exhibit Program in an amount not to exceed \$25,000.**
 - (2) **Adoption of a resolution authorizing the Director of Convention, Cultural and Visitor Services to submit a three (3) year Challenge Grant application to support incubation of developing arts organizations to the National Endowment for The Arts (NEA) in the amount of \$225,000.**
- [Housing and Community Services Committee referral 6/5/95 - Item 7c(3)]**
(Deferred from 6/20/95 - Item 9h)

Documents filed: See Item 7c(3) in City Council minutes of June 20, 1995.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Powers, and unanimously carried, Resolution No. 66109, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Convention, Cultural and Visitor Services to Negotiate and Execute 1995-96 Multicultural Arts Incubation Program Grants", and Resolution No. 66110, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Convention, Cultural and Visitor Services to Execute and Submit a Three-Year Challenge Grant Application to the National Endowment for the Arts to Support Incubation of Developing Arts Organizations in an Amount Not to Exceed \$225,000, to Accept the Grant if Awarded, and to Execute All Related Documents", were adopted. Vote: 10-0-1-0. Absent: Hammer.

- 9x Adoption of a resolution authorizing the Director of Convention, Cultural and Visitor Services to negotiate and execute the Fiscal Year 1995-96 Festival, Parade and Celebration Grant agreements with twenty-three (23) organizations for twenty-nine (29) events in a total amount not to exceed \$170,500.
[Housing and Community Services Committee referral 6/5/95 - Item 7c(4)]
(Deferred from 6/20/95 - Item 9i)**

Documents filed: See Item 7c(4) in City Council minutes of June 20, 1995.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 66111, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Convention, Cultural and Visitor Services to Execute the 1995-96 Festival, Parade and Celebration Grant Agreements", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 9y Approval of the following health insurance, dental insurance, psychological services and life insurance for qualified City employees and retirees for Fiscal Year 1995-96:**
- (1) Health Insurance**
 - (a) Self-Insured Health Care Program**
 - (1) Foundation Health Preferred Administrators for claim administration in the amount of \$350,000.**
 - (2) PPO Alliance for physician and hospital panel administration in the amount of \$65,000.**
 - (b) Health Maintenance Organization (HMO) health insurance.**
 - (1) Kaiser Foundation Health Plan in the amount of \$10,803,516.**
 - (2) Lifeguard in the amount of \$3,227,000.**
 - (2) Dental Insurance**
 - (a) Prepaid Dental Care Program**
 - (1) Dental Benefit Providers in an amount not to exceed \$419,000.**
 - (b) Indemnity Dental Care Program**
 - (1) Delta Dental Plan of California in an amount not to exceed \$360,000.**
 - (3) Psychological Services**
 - (a) Occupational Health Services (OHS) for Employee Assistance Program in an amount not to exceed \$256,265.**
 - (b) Occupational Health Services (OHS) for Critical Incident Stress Debriefing in an amount not to exceed \$15,000.**

9y (Cont'd.)

(4) Life Insurance

(a) West Coast Life Insurance Company in an amount not to exceed \$60,000.

(b) West Coast Life Insurance Company for Supplemental Accidental Death/Dismemberment in an amount not to exceed \$150,000.

(Human Resources)

(Deferred from 6/20/95 - Item 9j)

Documents filed: (1) Memorandum from Director of Human Resources, Nona Tobin, dated June 9, recommending approval of the Staff recommendation. (2) Letter from the San Jose Retired Employees Association, dated June 23, 1995, requesting the Administration delay the proposed rate increase until an audit is made to determine where financial problems exist in the current system.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Diquisto, and unanimously carried, the proposed health insurance, dental insurance, psychological services and life insurance for qualified City employees and retirees for Fiscal Year 1995-96, were approved. Vote: 11-0-0-0.

9z **Report on bids and award of contract for the San Jose International Airport Employee Parking Lot Project to the lowest responsive bidder, RGW Construction, Inc., in the amount of \$1,809,014 and approval of a ten (10) percent contingency in the amount of \$181,000. CEQA: ND. (Public Works)**
(Deferred from 6/20/95 - Item 9s)

Documents filed: (1) Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 1 and 21, 1995, recommending award of contract to the lowest responsive bidder, RGW Construction, Inc., and approval of said contingency. (2) Correspondence from Granite Construction Company, dated June 21, 1995, protesting the rejection of their bid. (3) Letter from Paul Guerrero, dated June 27, 1995, urging the contract be awarded to De Silva Gates Construction. (4) Correspondence from Sweeney, Mason & Wilson, legal counsel for De Silva Gates Construction Company, dated June 26, 1995, protesting the proposed award to a bidder other than De Silva Gates.

Discussion/Action: Director of Public Works, Ralph A. Qualls, Jr., advised that of bids received for the project, neither the apparent low bidder nor the second low bidder met the Minority/Women/Disadvantaged Business Enterprise (MBE/WBE) participation goal nor submitted adequate documentation of good faith efforts and the Administration is recommending award to the third low bidder, RGW Construction, as the lowest

responsive bidder. He advised that the low bidder and the second low bidder have filed formal protests to this action and have indicated they would like to address the Council on this matter. Roger Mason, representing De Silva Gates Construction, stated that De Silva Gates was the low bidder by approximately \$55,000 and Contract Compliance's recommendation that De Silva Gates be rejected as non-responsive was based on the position that De Silva Gates failed to meet the 20% MBE/WBE goal and failed to establish good faith efforts to meet the goal. He stated that De Silva Gates' bid listed E.T. Electric, a 100% Filipino-owned business certified by Caltrans and Contra Costa County, to perform the electrical work in the amount of approximately \$496,000 or 28.3% of the bid total. He stated that Public Contract Code Sections 2000 and 2052 require the City to accept a Caltrans-certified minority business enterprise and that the City is proposing to eliminate the lowest responsible bid with 28.3% minority participation in favor of a bid which is \$53,000 higher with only 2% minority participation. City Attorney Gallo advised that the City's MBE/WBE program is established under City Charter powers and only a court could decide that the State preempts the City and stated that, under Section 2051G, the City did not elect to participate in the Caltrans program. She advised that how MBE/WBE participation is established and good faith efforts demonstrated is based on City Council Policy, which has been successful because it has been consistently applied, and she advised Council not to deviate from that policy. Rod Cooper, Granite Construction, stated his situation was similar to De Silva Gates in that Granite's bid also included E. T. Electric and had DBE participation in excess of 30% and stated the proposed action was unfair to taxpayers and the minority contracting community, frustrates the intent of the MBE/WBE requirements, and requested that all bids be rejected and the project rebid. Michael Willcoxon, De Silva Gates Construction, reiterated earlier comments by Roger Mason and urged Council to conditionally award the contract to De Silva Gates Construction, subject to the application process of E. T. Electronics being completed and a determination being made. Alan Callo, E. T. Electric, stated that in addition to certification with Caltrans, E. T. Electric has MBE/WBE applications pending with San Francisco, the Port of Oakland, San José and Bart, that his office thought the Caltrans certification would be recognized by local jurisdictions in Santa Clara County, apologized for his misinterpretation and requested Council reconsider the proposal. Council Member Shirakawa, Jr., commented that because the two companies used the same electrical contractor, he believed they thought E. T. Electric was certified and since he was not comfortable with approving the Staff recommendation, he moved to reject all bids. City Attorney Gallo advised that the contract needs to be awarded today to maintain the funding source. Commenting on the strictness of the City's policy, she cautioned against applying an arbitrary level of substantial compliance rather than strict compliance since these decisions will be made on many contracts, and cited the precedence of a strict adherence to the policy. In response to questions from Council

Member Shirakawa, Jr., City Attorney Gallo advised that in order to award the contract to De Silva Gates Construction, Council must accept Caltrans certification, and Council Member Shirakawa, Jr., moved to accept the Caltrans certification of E. T. Electric and award the contract to De Silva Gates Construction. Responding to allegations made by De Silva Gates and Granite Construction, Director of Affirmative Action/Contract Compliance, Steven T. Wing, stated that insuring an opportunity to meet MBE/WBE goals requires provision of a fair opportunity for subcontractors to submit bids and explained that this project was bid approximately a month before the bid opening date, more than the minimum 21 days required, providing ample opportunity for prime contractors to contact subcontractors before the minimum time limit required. As a minor correction, he advised that only about half of De Silva's letters went out on the day indicated and the other half went out the next day, both at the end of the day which in the construction business limits the ability of companies to respond, so the timing issue is quite crucial. Additionally, he stated that there are other time constraints, such as advertising for bids more than ten days in advance, stating both of the protesting contractors were late on that time frame, impeding compliance with the policy. He reiterated the legal requirements to adhere to the process and cautioned about subjecting the City to numerous protests by inconsistent application of the policy and recommended Council not award this contract to either of the bid protesters. After conferring with Staff, City Attorney Gallo stated she had not realized other issues were involved and because the bid document is very specific concerning certification, De Silva Gates Construction was in fact non-responsive and the contract should be awarded to the contractor which did fully comply, as recommended by Staff. Council Member Fiscalini stated that Council should have flexibility to waive requirements and supported acceptance of Caltrans certification and award of the contract to the low bidder which had made a reasonable effort to comply and more than exceeded the requirements. Mayor Hammer stated that enough questions had been raised to warrant review of the policy, but in the meantime, recommended that in the interest of fairness to previous bidders, Council comply with existing policy with the understanding that the issue will be reviewed as soon as possible after the July break. Vice Mayor Johnson advised there were very precise reasons that Council had elected not to accept Caltrans certification and that policy should not be changed on the basis of one instance without benefit of a policy discussion. Regarding the award of public bids, Mayor Hammer responded to comments by Council Members Fiscalini and Shirakawa, Jr., by stating that Council cannot have flexibility in that bids cannot be awarded arbitrarily; there must be policy which is followed and to do otherwise would open the potential for a significant number of lawsuits and reiterated that existing policy could be reviewed along with Caltrans certification, but should not be changed without that discussion. Based on recent action by the Council in affirmation of the City's Affirmation Action policies, Council Member Fernandes stated that Council policies should be followed and any change to

9z (Cont'd.)

the policy should be done in a fair and formal setting. Council Member Diquisto stated he supported award of the contract to the low bidder. Council Member Diaz spoke in support of reviewing Affirmative Action policies for improvements, but stated that Council policy should be followed and the Staff recommendation approved. Council Member Shirakawa, Jr., withdrew his motion. Council Member Dando moved approval of award of the contract to the low bidder. Council Member Pandori seconded the motion. Council Member Woody stated she could not support the motion since Council sets the policy which Staff follows and, based on the advice of the City Attorney, she supported approving the Staff recommendation and scheduling a review of the policy. Receiving a response from Director Wing that MBE/WBE participation for the recommended contractor was 2%, Council Member Pandori stated that award to the low bidder whose participation was 28% would be consistent with City's goals, to which Council should be committed as opposed to policy which is not required by ordinance and which can be changed. City Attorney Gallo advised that concerning bid specifications, Council is required by the Charter and by ordinance to award to the lowest responsive bidder and the City has always taken the position that not submitting documentation on time is not responsive, the definition of which means not fully complying with specifications and that based on both the certification issue and non-compliance with specified dates, De Silva Gates Construction was not responsive. Director Qualls stated that this issue is strictly one of compliance with the plans and specifications, has nothing to do with the quality of the contractors, all of whom have good track records, and suggested that Council review the policy in an abstract form and not while bids are on the table, and reconfirmed the Staff recommendation. On a call for the question, the motion by Council Member Dando failed on a 4-7-0-0 motion with Council Members Diaz, Fernandes, Johnson, Powers, Shirakawa, Jr., Woody; Hammer in opposition. Council Member Powers moved approval of the Staff recommendation. Council Member Diaz seconded the motion. On a call for the question, the motion by Council Member Powers was carried and award of the contract and said contingency to RGW Construction, Inc., were approved and their execution authorized. Vote: 6-5-0-0. Noes: Dando, Diquisto, Fiscalini, Pandori, Shirakawa.

9aa Approval of a first amendment to the agreement with the County of Santa Clara extending the term of the agreement for mobile and hazardous waste collection by one (1) year, from July 1, 1995 to June 30, 1996, and including provisions for the siting and operations of a permanent recyclable household hazardous waste facility.

[Transportation, Development and Environment Committee referral 6/8/95 - Item 7e(3)] [Deferred from 6/20/95 - Item 9v(1)]

Documents filed: See Item 7e(3) filed in City Council Minutes of June 20, 1995.

9aa (Cont'd.)

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the first amendment to said agreement with the County of Santa Clara was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

- 9bb**
- (1) Approval to:**
 - (a) Reject all proposals submitted under Request for Proposal 002-95 (Solid Waste Collection for City Facilities).**
 - (b) Direct the Director of General Services to revise Request for Proposal and solicit proposals from all interested parties.**
 - (2) Adoption of a resolution authorizing the Director of General Services to negotiate and execute a first amendment to the agreement with Waste Management of Santa Clara Valley for the period January 1, 1995 to December 31, 1995, using the new compensation schedule submitted in response to Request for Proposal 002-95, beginning July 1, 1995.**
- (General Services)**
(Deferred from 6/13/95 and 6/20/95 - Item 9x)

Documents filed: Memoranda from Acting Director of General Services, Ellis M. Jones, Jr., dated June 6 and June 21, 1995, recommending approval of rejection of proposals, revision of the Request for Proposal (RFP) using the new compensation schedule, and negotiation and execution of a first amendment to the current provider, Waste Management of Santa Clara Valley.

Discussion/Action: William J. Garbett addressed the Council in opposition to this proposal. Upon motion by Council Member Fernandes, Council Member Powers, and unanimously carried, the rejection of all proposals submitted under RFP 002-95 and direction to the Director of General Services to revise the RFP and solicit proposals from all interested parties, was approved, and Resolution No. 66112, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute a First Amendment to the Agreement with Waste Management of Santa Clara Valley", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 9cc Adoption of a resolution setting a public hearing on August 15, 1995 at 1:30 p.m. to:**
- (1) Convey certain City property located at 1440 Dubert Lane to InnVision.**
 - (2) Approve terms of a Disposition and Development Agreement with InnVision for the property conveyance, project financing and other details necessary to transfer ownership of City-owned property at 1440 Dubert Lane to InnVision for use as a transitional shelter.**
- (Housing)**
(Rules Committee referral 6/21/95)
Renumbered to Item 6c(4).

Documents filed: See Item 6c(4) for documents.

Discussion/Action: See Item 6c(4) for Council action taken.

- 9ee Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to an agreement between the City and the Capitol Automall Expressway Advertising Association to change the time for payment of City staff costs incurred during the establishment of an Improvement District.**
(Dando/Fiscalini)
(Rules Committee referral 6/21/95)

Documents filed: Memorandum from Council Members Dando and Fiscalini, dated June 23, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Dando, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 66113, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to an Agreement Between the City and the Capitol Expressway Auto Dealers Advertising Association to Change the Time for Payment of City Staff Costs Associated with the Establishment of an Improvement District", was adopted. Vote: 9-0-2-0. Absent: Diquisto, Hammer.

- 9hh Discussion of SB 657 (Maddy) Property Taxation.**
[Rules Committee referral 6/21/95 - Item 7b(2)(d)]

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 26, 1995, providing analysis of SB 657 and recommending that Council hold off taking a position at this time, pending discussion with Senator Maddy on the possessory interest tax issue.

9hh (Cont'd.)

Discussion/Action: Upon motion by Council Member Fernandes, Vice Mayor Johnson, and unanimously carried, the Council took no position on this bill at this time, pursuant to advice of the City Attorney.

10e Adoption of a resolution in compliance with Article XIII B of the Constitution of the State of California and as modified by Proposition 111 and SB 88 electing the population and inflation factors and establishing the Fiscal Year 1995-96 Appropriation Limit. (City Manager's Office)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated June 12, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, Resolution No. 66114, entitled: "A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 1995-96 Appropriations Limit of the City of San José Pursuant to California Constitution Article XIII B, and Section 7900 Et. Seq. of the California Government Code", was adopted. Vote: 10-0-1-0. Absent: Hammer.

Items 6b(2), 6e(64), 10a and 10g were considered together.

6b(2) ORD. NO. 24899 - Establishes the procedures and methodology for transportation analysis in the Evergreen Development Policy Area.
[Deferred from 5/23/95 et al., and 6/13/95 - Item 6b(3)]

6e(64) Adoption of a resolution approving a Cooperative Agreement with Caltrans for highway improvements consisting of a two-lane ramp and an auxiliary lane on Highway 101 between Capitol Expressway and Tully Road. CEQA: Resolution No. 65629. (Public Works)
(Rules Committee referral 6/21/95)

10a Final PUBLIC HEARING and adoption of a resolution approving, confirming, and adopting the Engineer's Report and setting the amount of assessment for Maintenance District No. 16 (Aborn-Murillo). CEQA: Resolution No. 63179. (Public Works)
(Continued from 5/23/95 and 6/13/95 - Item 10a)

6b(2), 6e(64), 10a and 10g (Cont'd.)

**10g Final PUBLIC HEARING and adoption of a resolution approving, confirming, and adopting the Engineer's Report and setting the amount of assessment for Benefit Assessment District No. 91-209SJ (Aborn-Murillo). CEQA: Resolution No. 63179. (Public Works)
(Continued from 6/20/95 - Item 10b)**

Documents filed: (1) Proof of Publication of Title of Ordinance No. 24899, submitted by the City Clerk. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 27, 1995, revising the number of dwelling units in Ordinance No. 24899 from 4,620 to 4,759 to be consistent with the Engineer's Report. (3) Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 21 and June 23, 1995, recommending holding the second public hearings and adoption of said resolutions approving, confirming, and adopting the Engineer's Report and setting the amount of assessment for Maintenance District No. 16; and approving, confirming, and adopting the Engineer's Report and setting the amount of assessment for Benefit Assessment District No. 91-209SJ. (4) See City Council Minutes of May 16, 1995, for proof of publication of notice of public hearings for Maintenance District No. 16 and Benefit Assessment District No. 91-209SJ. (5) Affidavit of Mailing of Notice to Property Owner of Recording of Contingent Assessment for Benefit Assessment District No. 91-209SJ. (6) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 21, 1995, recommending adoption of a resolution approving a Cooperative Agreement with Caltrans for highway improvements consisting of a two-lane ramp and an auxiliary lane on Highway 101 between Capitol Expressway and Tully Road.

Discussion/Action: The Second and Final Public Hearings were opened. Deputy Director of Public Works, Carl Mosher, explained the revision to the number of dwelling units in Ordinance No. 24899 under Item 6b(2), stating that the differences resulted from analyses of requests from property owners and inclusion of two parcels not included in the district, and regarding formation of the Benefit Assessment District, Item 10g, the Engineers Report was also amended to reflect that change. The following individuals addressed the Council: speaking in support were Kathy Oesterreich, Evergreen Specific Plan Property Owners Partnership, and Pat Sausedo, Evergreen Development Policy Area Property Owners. Norm Mateoni, representing Arcadia, expressed concern about allocation of traffic capacity units designated for the site, and stated for the public record that there is on file a zoning application which would change this site from mixed use to commercial for 800,000 square feet which is consistent with the General Plan; and that allocations for the Benefit District calls for 217,000 residential units which converts to 80,000 sq. ft of commercial. He stated Arcadia was not opposed to the Benefit Assessment District going forward but requests efforts be made to find a creative solution in terms of recognizing a distinction between commercial and residential. John Messina expressed opposition to the proposal.

6b(2), 6e(64), 10a and 10g (Cont'd.)

Responding to questions raised by the speakers, Deputy Director Mosher stated for the record that proper notification was made regarding the formation of this district; additionally, notices were sent to the entire Evergreen community and a community meeting held to present the Evergreen Specific Plan and the concepts of the Benefit District, after which time proper notification was made to all the property owners in the area of the Benefit Assessment District. In reply to questions related to Arcadia, he recommended that Staff should work with Arcadia for a commercial development in Evergreen and report back to Council with alternatives which could be used to analyze traffic in the Evergreen Area for commercial development. Council Member Woody reiterated that this issue had received community involvement and had widespread community input and stated concern that the recommended direction for staff analyses of traffic relative to commercial development keep in mind the concern of the community regarding negative impacts on level of service, and moved approval of all Agenda items regarding the Evergreen Specific Plan with general direction to Staff to review and analyze traffic relative to commercial development in the Evergreen Area. Council Member Diquisto seconded the motion and commended Council Member Woody for her leadership on this issue. Deputy Director Mosher stated that Staff would provide a status report to Council by October on the issue of commercial development in the Evergreen. Council Member Woody thanked the Evergreen property owners for their vision and cooperation in developing the proposals. Council Member Diaz supported the motion and commended Council Member Woody for her leadership and thanked the development staff and community for their participation. Director Qualls thanked the Staff who have long been involved with this project: Principal Planner Caroline Painter, Project Manager Kevin Briggs, and Deputy Director Carl Mosher. On a call for the question, the motion was unanimously carried, the Public Hearings were closed, Ordinance No. 24899 was adopted, the Administration was directed to conduct analyses of traffic impacts of commercial development in the Evergreen Area, taking into consideration level of service concerns and report back to Council by October 1995; Resolution No. 66117, entitled: "A Resolution of the Council of the City of San José Approving Cooperative Agreement #4-1486-C Between the City of San José and the State of California for Highway Improvements on Route 101 Between Capitol Expressway and Tully Road"; Resolution No. 66115, entitled: "Resolution of the Council of the City of San José Confirming and Adopting the Engineer's Report for Maintenance District No. 16 (Aborn-Murillo) Fiscal Year 1995-96", and Resolution No. 66116, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Benefit Assessment District No. 91-209SJ (Aborn-Murillo)", were adopted. Vote: 10-0-1-0. Absent: Hammer. On behalf of the property owners, Kathy Oesterreich thanked Council Member Woody and the Staff and community members who participated in this project. On behalf of the property owners, Kathy Oesterreich thanked Council

6b(2), 6e(64), 10a and 10g (Cont'd.)

Member Woody, Director Schoennauer and Planning Department Staff Carol Painter, Jim Derryberry and Linda Hannigan; Director Qualls and Public Works Staff Carl Mosher, Kevin Briggs, Maria Robinson, Ron Kahn and Michael Ho; City Attorney Gallo and Legal Staff Rick Doyle, Tom Ruby and Katherine Kogura. Council Member Woody thanked former San Jose Council Member Pat Sausedo, Mayor Susan Hammer and the City Council for their support.

Mayor Hammer returned and reassumed the Chair.

- 10f PUBLIC HEARING and adoption of a resolution confirming the Report of Abatement Cost and Charges, as may be modified by the Council, regarding the recovery of abatement costs for vacant and unsecured properties for Blight and Housing Code Violations, and ordering that notices of lien for the unpaid abatement costs be recorded as an assessed charge against the properties involved. CEQA: Exempt. (Planning, Building and Code Enforcement)**

Documents filed: None.

Discussion/Action: This item was dropped from the Agenda.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The Redevelopment Agency Board convened at 5:55 p.m. to consider Items 11a, 11b, and 11c in a joint session.

- 11a Adoption of resolution approving a Cooperation Agreement between the City and Redevelopment Agency, granting the Agency \$71,428.57 per year for seven (7) years, for a total not to exceed \$500,000, from the City's Development Enhancement Fund, to facilitate the construction of the StrataCom building by Berg & Berg in East Edenvale.
[Redevelopment Agency referral 6/15/95 - Item 9a(2)]
Renumbered from Item 6f(3)**

Documents filed: See Item 9a in minutes of Joint City Council/Redevelopment Agency meeting of June 15, 1995.

11a (Cont'd.)

Discussion/Action: Albert Drost and William J. Garbett addressed the Council in opposition to this proposal. Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 66118, entitled: "Resolution of the Council of the City of San José Approving the Cooperative Agreement Between the Redevelopment Agency of the City of San José and the City of San José Providing for an Agency Annual Contribution of \$100,000, and a City Annual Contribution of \$71,428.57, for a Period of Seven Years to Facilitate the Construction of the Stratacom Building by Berg & Berg", and Redevelopment Agency Resolution No. 4003, were adopted. Vote: 11-0-0-0.

11b Adoption of resolutions by the City and Agency:

- (1) Approving a cooperation agreement between the Redevelopment Agency and the City of San Jose regarding the Agency's contribution of \$700,000 for construction and improvements within the San Jose Arena.**
- (2) Authorizing the City Manager to negotiate and execute an agreement between the City and San José Arena Management Corporation under which the Corporation shall act as project manager to accomplish these improvements.**

(City Manager's Office)

(Rules Committee referral 6/21/95)

Documents filed: Memorandum from City Manager Regina V.K. Williams and Redevelopment Agency Executive Director, Frank M. Taylor, dated June 22, 1995, recommending adoption of said resolutions.

Discussion/Action: Albert Drost addressed the Council in opposition to this proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 66119, entitled: "Resolution of the Council of the City of San José Approving a Cooperation Agreement Between the City of San José and the Redevelopment Agency of the City of San José Regarding Certain Improvements Within the San José Arena Facility", and Redevelopment Agency Resolution No. 4004, were adopted. Vote: 11-0-0-0.

- 11c Adoption of resolutions by the Agency and the City:**
- (1) Amending the Redevelopment Inclusionary Housing Policy.**
 - (2) (a) Making a determination that the private developer of the California Grove residential development located in the Edenvale Redevelopment Project Area would incur an unreasonable economic hardship in meeting the Redevelopment Inclusionary Housing Requirement as part of the development and that there are no feasible alternatives.**
 - (b) Designating the 72 unit Huff Housing Project as Alternative Designated Units for the California Grove Project.**
 - (c) Approving the affordability restrictions pursuant to the alternative authorized by the Planned Development zoning (File No. PDC 94-10-040; Ordinance No. 24824) for the California Grove residential development at the northeast corner of Santa Teresa Boulevard and Liska Lane to provide:**
 - (1) 23 moderate-income ownership units within the development; and**
 - (2) Payment by the developer to the City of an in-lieu fee of \$900,000 to relieve the developer of its obligation to provide 15 units within the California Grove development.**
 - (3) Use of the equity sharing for the reserve fund.**
 - (d) Approving a fund reservation and an appropriation of \$100,000 from the 20% Housing Funds to provide secondary financing for first-time, moderate-income buyers of restricted units in the California Grove development consistent with the approved equity share program for second mortgages.**
 - (e) Authorizing the Director of Housing, the Director of Planning, Building and Code Enforcement, and the Agency's Executive Director to negotiate and execute, on behalf of the City and the Agency, all necessary documents to effectuate this resolution.**
- (Housing/City Attorney's Office)**
(Rules Committee referral 6/21/95)

Documents filed: Memorandum from City Manager Regina V.K. Williams, dated June 27, 1995, recommending adoption of said resolution amending the Redevelopment Inclusionary Housing Policy; Memorandum from Director of Housing, Alex Sanchez, dated June 27, 1995, making recommendations relative to the California Grove residential development located in the Edenvale Redevelopment Project Area, as detailed therein.

Discussion/Action: Housing Director Alex Sanchez explained that Part 1 of this item provides for modification of existing policy on the 15% inclusionary requirement that,

11c (Cont'd.)

within Redevelopment Project areas, developers must set aside 15% for very low- and moderate income housing units--6% for very low and 9% for moderate income. He stated that in 1986 the City Council and Redevelopment Agency Board established policies that require the developer to produce those units within Redevelopment Project Areas, in 1993 SB 1290 amended State law to allow for those requirements to be met outside the project area, and in 1994 the City Council and Redevelopment Agency Board adopted policies which again require those units to be developed within the project areas, but also provided an exception to the policy that allowed for in-lieu payment if those units were three or less in a particular development. He advised that Staff encountered difficulty in implementing the policy and is recommending modifications which require the developer to meet the obligation, either directly or indirectly, to avoid or minimize risk to the City and Agency should those units not be produced. Therefore, Staff is recommending four changes to the existing changes: (1) When Council determines that, despite serious efforts on the part of a private developer to provide the housing in the development, the requirement is infeasible and Council approves Alternative Designated Units, Council may allow the developer to pay an in-lieu fee; (2) The Council must determine that Alternative Designated Units will actually be constructed and, if the units are outside of the Redevelopment Project Area in which the development is situated, units will be under construction before any sunset date in State law; (3) The in-lieu fee will be \$30,000 for each unit needed to meet the mandatory 40% very low income requirement and \$40,000 for each other affordable unit, and if the Alternative Designated Unit is outside of the project area the fee is doubled; (4) Developers will be permitted to develop for-sale units for the moderate units within the development, if Alternative Designated Units are designated by the City Council or a reserve fund to maintain the required number of restricted units for the life of the restriction is established. He stated changes are stringent controls which meet the objectives of requiring the developer to directly or indirectly meet the required obligation and minimize risk to the Agency or the City. Council Member Powers elaborated on problems involved in implementation of the existing policy and moved approval of amending the Redevelopment Inclusionary Housing Policy. Council Member Fiscalini seconded the motion. Council Member Diaz stated he would not support the motion, that he would have preferred that this item be deferred at the Housing and Community Services Committee level since the Committee will review Housing policies in August 1995, expressed concern that the proposal may reduce the amount of affordable housing in the City, and stated that discussion which includes community input was needed. Mayor Hammer stated this issue had been worked on for many months and urged the Council to move forward on this issue. City Attorney Gallo clarified that Council would need to be satisfied that a project with Alternative Designated Units would be constructed and advised that issue would need careful review. Council Member Fernandes stated she could not support the policy, which

11c (Cont'd.)

would not increase affordable housing and would allow developers to buy out of their affordable housing obligation, thereby defeating Council's purpose of integration and dispersion of low and moderate income housing throughout the City. She stated that units built with money put into the affordable housing fund would not be built in the area where the housing was built, and pointed out that on the Renaissance project when this same type of fund transfer was discussed, the City Council, Redevelopment Agency, and both the Planning and Housing Directors were opposed. This policy, she stated, would defeat the purpose of building integrated affordable housing when new units are built and would encourage affordable housing to be built in the lower income areas that already are impacted. Director Sanchez explained that money deposited in housing and homeless funds would be available for the production of additional housing and the preservation and improvement of existing housing and will be used in accordance with the policy of the Mayor and City Council which encourage dispersion and economic integration. He clarified that the Renaissance project assumed, through its negotiation with other developers, the obligation of for-sale projects surrounding it, and the City agreed to produce those units working with them to meet the 15% requirement; and further stated the project was designed as a rental development that would be affordable for a minimum of thirty years, whereas for-sale housing is more complicated in terms of long-term affordability. Council Member Fiscalini asked about the possibility that in-lieu fees could be used to provide upgrades in the project that has been substituted, such as the instance where the County Housing Authority, in working with the adjoining condominium owner, had to absorb some costs to make improvement necessary to keep the adjoining neighbor happy. Housing Director Sanchez replied that the housing/homeless fund will allow for that type of upgrade and suggested he meet with the Housing Authority to determine their needs and report back to Council on that issue. Council Member Powers advised that the project was originally proposed as a senior housing complex and was changed to for-sale housing partially because a HUD subsidized senior and family housing complex existed next door, that there will still be 23 units of affordable housing within the project and additional units will begin soon on nearby Monterey Road, and reconfirmed her commitment to maintaining industrial land within the City. City Attorney Gallo advised that the right to build units outside the project area will end in 1997 under the sunset provision of the law and this policy was designed in order that the City would not be vulnerable to having to put units back into what might be an industrial area. Council Member Diaz expressed concern the funds would be inadequate in situations where the City does not participate and stated the policy would reduce the amount of affordable housing in the City. In response to a question from Council Member Fernandes' about Renaissance, City Attorney Gallo stated that the policy would apply to all developments and advised that the inclusionary requirement for developers receiving no City funding was based on State law which the City learned about at the time of the Renaissance project and in that case,

11c (Cont'd.)

Renaissance was relieved of a great deal of the requirement in that the City provided the very low affordability by a separate program. She advised that each time the City has dealt with the issue it has been difficult to find something that works on a particular project and in this case, the Council wanted for-sale housing, which has a variety of problems because the affordability restriction is lost when the unit is transferred or foreclosed, and the City might have been required to replace those units in the same project area on the site which the Council wanted for industrial. She stated the reserve fund would allow the City to purchase the last two units if all affordable units are lost to preclude the City's having to build additional housing. Council Member Fernandes expressed concern about establishing such a fund without careful controls, lest affordable housing units end up wherever in the City they are acceptable, such as the 300-unit affordable housing complex placed in District 4 resulting from a project in North San Jose, producing the opposite of Council's integration goals. She stated the policy should have a cap on the number of units--such as a project approved in December limited to 3-4 in-lieu units with an in-lieu fee of \$80,000, and that there should be guidelines for placement of affordable housing units close to the related project. Director of Planning Schoennauer clarified that the River Oaks project, which resulted in the first San José housing project in District 4, had come through before the City had understood the State's requirement, and noted that the Renaissance project has the same developer as the project under consideration who may make a similar proposal for Renaissance if the policy is adopted. Council Member Pandori pointed out that at issue are instances where residential developers receive no assistance from the Redevelopment Agency, which means they are treated differently from other private developers by virtue of their location, thereby creating a disincentive for development in Redevelopment Areas, and that the proposed policy will not relieve the developers from the requirement, but will provide them with two ways to meet the requirement. On a call for the question, the motion by Council Member Powers carried, the Staff recommendation dated June 27, 1995, on Item 11c(1) was approved, and Resolution No. 66120, entitled: "A Resolution of the Council of the City of San José Amending the Inclusionary Housing Policy", and Redevelopment Agency Resolution No. 4005 were adopted. Vote: 9-2-0-0. Noes: Diaz, Fernandes. Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and carried, the Staff recommendation dated June 27, 1995, on Item 11a(2)(a) through (d), was approved, and Resolution No. 66121, entitled: "A Resolution of the Council of the City of San José Modifying the Conditions for the Development of the California Grove Housing Project in Edenvale Redevelopment Project Area", was adopted. Vote: 10-0-0-1. Disqualified: Johnson, due to a family member being employed by IBM. Mayor Hammer and Council Member Powers thanked Sean Morley and all those who have worked on the project for the past year.

The Redevelopment Agency portion of the meeting was adjourned at 5:59 p.m.

CLOSED SESSION REPORT

City Attorney Gallo disclosed the following Closed Session actions of June 27, 1995:

A. Authority to Enter a Litigation Case as Amicus Curiae:

1. Case Name: Berkeley Community Health Project, et al. v. City of Berkeley, et al.

Adverse party or parties: Berkeley Community Project, et al.

Substance of litigation: This is a challenge to the City of Berkeley's Solicitation Ordinance.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: None.

Abstain: None.

2. Case Name: Water Quality Association, et al. v. City of Santa Maria

Adverse party or parties: Water Quality Association, et al.

Substance of litigation: This is a challenge to the city's ordinance prohibiting the discharge of brine from residential water softening systems or devices into the city's system.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: None.

Abstain: None.

ORAL COMMUNICATIONS

Bill Chew addressed the Council Members to commend them for their hard work on behalf of the citizens and to wish them a good recess.

ADJOURNMENT

The Council of the City of San Jose adjourned at 6:32 p.m.

SUSAN HAMMER, MAYOR

ATTEST:

**PATRICIA L. O'HEARN
CITY CLERK**

DC/6-27-95